United States Court of Appeals

for the Second Circuit

APPENDIX

B
As

No. 75-4016

United States Court of Appeals

FOR THE SECOND CIRCUIT

NATIONAL LABOR RELATIONS BOARD,

Petitioner,

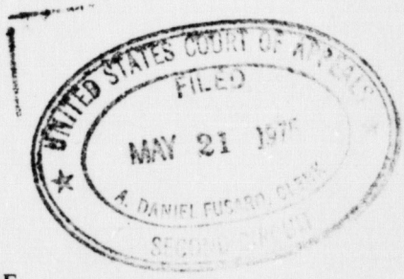
v.

DEE KNITTING MILLS, INC.; DIPPY KNITS, INC.;
and THREE D KNITTING MILLS, INC.,

Respondents.

ON APPLICATION FOR ENFORCEMENT OF AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD

APPENDIX



ELLIOTT MOORE,
Deputy Associate General Counsel.
National Labor Relations Board.
Washington, D.C. 20570

ABS DUPLICATORS, INC.–1732 Eye Street, N.W.–Washington, D.C.–298-5537

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APPENDIX

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
WASHINGTON, D.C.

DEE KNITTING MILLS, INC., DIPPY KNITS, INC. AND THREE D KNITTING MILLS, INC.	:	
and	:	
INTERNATIONAL LADIES' GARMENT WORKERS' UNION AFL-CIO	:	Cases Nos. 29-CA-3563 29-CA-3627 29-CA-3637
and	:	
LOCAL 550, INTERNATIONAL UNION OF MAINTENANCE AND PRODUCTION WORKERS	:	

CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

In the Matter of: Dee Knitting Mills, Inc.,
Dippy Knits, Inc., and
Three D Knitting Mills, Inc.,

Case Nos.: 29-CA-3563
29-CA-3627
29-CA-3637

DATE	
1973	
September 24	Charge filed in Case No. 29-CA-3563
November 13	Charge filed in Case No. 29-CA-3627
November 19	Charge filed in Case No. 29-CA-3637
November 29	First Amended Charge filed in Case No. 29-CA-3563
	First Amended Charge filed in Case No. 29-CA-3627
	First Amended Charge filed in Case No. 29-CA-3637
November 30	Order Consolidating Cases, Complaint and Notice of Hearing, dated
December 10	Answer and Counterclaim, dated
December 12	Notice of Motion and Demand for Bill of Particulars, dated

DATE	
1974	
January 10	Notice of Motion, dated
January 14	Respondent's Answer in Part and Reply in Part to a Demand for a Bill of Particulars, dated
January 17	Order on Respondent's Motion for Bill of Particulars, dated
January 21	Hearing opened
February 1	Hearing closed
April 29	Administrative Law Judge's Decision issued
June 7	General Counsel's exceptions to the Administrative Law Judge's Decision, received
June 18	Exceptions of Charging Party to the Administrative Law Judge's Decision and Recommended Order, received
June 19	Respondent's Exceptions to the Administrative Law Judge's Decision, received
November 19	Board's Decision and Order, dated

[dated April 29, 1974]

* * * * *

DECISION

Statement of the Case

MELVIN J. WELLES, Administrative Law Judge: This case was heard at Brooklyn, New York, between January 21 and February 1, 1974, based on charges and amended charges, filed September 24, November 13, November 19 and November 29, 1973, and a complaint issued November 30, 1973, and amended at the hearing, alleging that Respondents violated Section 8(a)(1), (2), (3) and (5) of the Act. The General Counsel, the Charging Party and Respondents have filed briefs, which have been carefully considered.

Upon the entire record in the case, including my observation of the witnesses, I make the following:

[1] [Footnote omitted in printing]

Findings of Fact

I. The Business of the Companies

The three companies, Dee, Dippy, and Three D, are New York corporations, and are all located at 1650 New Highway, Farmingdale, New York. Dee manufactures sweaters and related products, Dippy distributes the products, and Three D fabricates knitgoods and related products at this location. It is conceded, and I find, that the three companies are engaged in commerce within the meaning of Section 2(6) and (7) of the Act, on the basis of their annual purchases of more than $50,000 worth of products from points outside the State of New York. The General Counsel contends, and Respondents deny, that Dee, Dippy and Three D constitute a single enterprise. Although resolution of this question is not too significant to the issues in this case,[2] I have no difficulty resolving it, and finding that the three companies do constitute a single employer for all purposes. I base this conclusion on the stipulated facts that the three companies share a common location, that the ultimate product is produced by employees of both Dee and Three D, that Dippy sells the products manufactured by employees of Dee and Three D, that Vincent DiBartolo is president of all three companies, his brother Calogero "Charles" DiBartolo is secretary-treasurer of Dee, and secretary of the other two companies, and another brother Salvatore DiBartolo, is vice-president of Three D, that Vincent and Charles DiBartolo are directors of all three companies, and Salvatore DiBartolo is a director of Three D. Further supporting this conclusion is the obvious fact, as the story of the events in this case will show, that

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[2] It bears slightly on whether the knitters, who are on the Three D payroll, should be included in the unit, which otherwise contains only employees on Dee's payroll. In this connection, since the General Counsel would exclude the knitters from the unit, and Respondent include them, a favorable resolution of the "single enterprise" question to either would militate against its unit position. It bears also on the name or names toward which any order herein would be directed, and possibly on liability for alleged 8(a)(1) conduct by Tramuta and Salvatore DiBartolo.

Robert Lipsenthal, secretary-treasurer and a director of Dippy, and a stockholder in Dippy, has been fully involved in the personnel and labor relations problems of Dee, although having no "official" connection therewith.[3]

II. The Labor Organizations Involved

The International Ladies' Garment Workers' Union, AFL-CIO, and its Local 107, hereafter referred to as the Union, or the Charging Party, or Local 107, Local 550, International Union of Maintenance and Production Workers, Local 231, Industrial Trade Union, AFL-CIO, and the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, are labor organizations within the meaning of Section 2(5) of the Act.

III. The Unfair Labor Practices

A. Background; The Issues; Credibility

The events in this case center on and revolve about the critical date of September 20, 1973.[4] On that date, the ILGWU allegedly demanded recognition for the Company's production and maintenance employees, and Respondent allegedly refused the request, and discharged some 19 employees in response to that demand, in violation of Section 8(a)(5) and 8(a)(3) of the Act, respectively. Some 2 to 3 months before this critical date, at a time when two other unions, the Teamsters and Local 231, were seeking to organize, Respondent allegedly coerced its employees by threats and promises of benefits to dissuade them from having a union, by interrogating them about their union membership and sympathies, and by suggesting that the employees permit the Company to sponsor a labor organization. The General Counsel also alleges as violative of the Act conduct by Respondent on and after September 20, consisting of an alleged assault by automobile on a picketing employee, threats of physical violence

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[3] Hereafter, except where reference to a particular one of the three companies is necessary, I will refer to all three as Respondent, or the Company, or the Employer.

[4] All dates are in 1973 unless otherwise specfiied.

to strikers and to union officials in the presence of strikers, and harassment of the strikers in various ways, including threats and interrogations. Finally, the General Counsel alleges that Respondent unlawfully assisted Local 550, by soliciting authorization cards for it, in August, September, and October, and by recognizing it in late October or early November.[5]

Also at issue, with respect to the refusal to bargain allegation, are various unit and majority questions, involving unit inclusions or exclusions, whether particular authorization cards were properly authenticated, and whether particular employees were "eligible" for purposes of counting their cards or being part of the unit's complement.

For the most part, the testimony concerning the various events in this case is in sharp and direct conflict. For example, the testimony by Lipsenthal concerning a meeting or meetings called by the "bosses" (Vincent and Charles DiBartolo) in late June or early July is quite different from that of 11 General Counsel witnesses concerning those meetings.[6] Neither Charles nor Vincent DiBartolo testified at all in this proceeding. The testimony of the two Union officials, Banyai and Ruggiero, and the four employees on the committee, Maurice, Fitzpatrick, Benvenuto, and Tarsky, concerning a meeting with the DiBartolos,[7] Robert Lipsenthal, and Salvatore Tarmuta on September 20, also is in conflict in some significant respects, although in some other respects, Respondent witnesses Lipsenthal and Tramuta confirm testimony of various General Counsel witnesses.

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[5] The solicitation of signatures on Local 550 authorization cards was accomplished by Charles Reina. Whether a violation is entailed thereby depends on whether or not Reina was a supervisor, an issue to be resolved herein. Renia's status is also involved with regard to some of the alleged 8(a)(1) violations mentioned above.

[6] These employees are Gloria Maurice, Ethel Fitzpatrick, May Lou Pastore, Betty Benvenuto, Freda Tarsky, Mary Dorio, Ella Santiago, Paula Limery, Philomena Laritza, Doria Tramont, and Barbara Laufman.

[7] When "DiBartolos" is used, it refers to Vincent and Charles, not to the other brother, Salvatore.

With respect to the critical events of September 20 immediately after the Union and Company met, some 18 employees testified for the General Counsel,[8] and Lipsenthal, Reina, Tramuta, and employee Ann Marie Cooper for the Respondent. Although the differences are not as sharp,[9] for Lipsenthal concededly was not present during the first few minutes, Tramuta stayed behind in the office, and Cooper, by her own testimony, did not hear anything, there were nonetheless some "denials" by Respondent's witnesses of matters testified to by General Counsel's witnesses. As to the other incidents and statements allegedly violative of the Act, there were also conflicts in the testimony, in some incidents involving only a single witness on each side of the conflict, such as statements by Tramuta to Benvenuto and to Nolan, and by Reina to Laufman, Benvenuto and Nolan. There is no conflict, however, with respect to the 8(a)(2) allegations involving Local 550, for the facts were admitted, by way of stipulations and Reina's testimony, and the only real question arising is whether Reina was a supervisor. As to that, about a dozen General Counsel witnesses testified, describing what Reina did and what they were told. Much of this testimony was not contradicted by Reina himself, or Lipsenthal, although there are some differences in tone and degree.

As to the remaining issues in the case, and the "facts" relative to them, there is no conflict — the evidence being either uncontradicted or stipulated. These issues include the unit and eligibility questions and the validity of some of the authorization cards proffered by the General Counsel.

As noted previously, the two principal actors for Respondent, Charles and Vincent DiBartolo, were not even called to testify. Furthermore, one of Respondent's witnesses, employee Ann Marie Cooper must be totally discredited.

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[8] All but Pastore of the 11 listed above, and Angela Rosa, Fanny Spezia, Elvira Romano, Providence Nolan, Antoinette Jackson, Adeline Bonanza, Gilda Lombardo, and Cecelia Barbour.

[9] The principal actors for the Company were Charles and Vincent DiBartolo, who, as indicated earlier, did not testify at all.

Not only did her testimony at the hearing differ materially from a sworn statement she had earlier given to the General Counsel, but after first testifying that she worked only until 4:30 p.m., with her "daughter" Elizabeth Ann working from 4:30 to 8:30 p.m., she was forced to admit that her daughter never worked for the Company, but she had regularly worked overtime at straight time rates by arrangement with Company officials. Taking the September 20 events as an example, to the extent that Reina or Tramuta "denied" that the DiBartolo's told all employees with buttons on that they were fired, it is significant that Tramuta admitted that he had stayed behind in the office during the time of the alleged firings, and that Reina was very vague in his testimony concerning this incident. In addition, Reina testified that he signed up many employees for Local 550 while they were at work, but the stipulated evidence shows that about 14 of the signers were not even employed by the Company at the time. Finally, Lipsenthal, with respect to this incident, although he testified on direct examination that no one told any employees they were "fired," conceded on cross-examination that he could have remained behind in the office for as much as 5 minutes, and that the women already had their coats on and "were already on their way out," when he did come into the shop from the office. As the testimony of the General Counsel's witnesses was to the effect that the DiBartolos came out of the office and almost immediately told the employees wearing ILGWU buttons to get out, that they were fired, this 5 minute gap alone necessarily means that Lipsenthal's earlier testimony cannot be regarded as a denial with knowledge of the facts. It is also significant in this respect that Lipsenthal testified that one of the DiBartolos said "You are not fired, you are welcome to come back to the shop. Nobody fired you." Unless someone had led the employees to believe they had been fired (by saying so, according to the testimony of the employees concerned) there would scarcely be reason to tell them subsequently that they had not been fired.

In sum, for the reasons indicated, and also because of my impression of the witnesses, I credit the General Counsel's witnesses for the most part with respect to any conflicts in the testimony. Having given some bits and pieces of the events in order to explain these credibility resolutions, I proceed to tell the facts, based on the credited testimony, the uncontradicted testimony, and the stipualtions. The facts related are based on an amalgam of the testimony, for there were minor differences and discrepancies in the testimony of the General Counsel's witnesses.[10]

B. The Facts

1. Events prior to September 20

Late in June, organizers from Local 231 passed out literature in front of Respondent's plant, and either late in June or early in July, Teamster organizers similarly passed out literature at the plant. In response to these organizing attempts, officials of the Company conducted meetings of the employees.[11] Among other things, the DiBartolos and Lipsenthal (the latter perhaps not present at one of the meetings) told the employees not to sign union cards, that if the employees wanted a union they should speak to the DiBartolos in their office and "we can work things out ourselves, between ourselves," that the employees would get a raise in July (said at the June 25 meeting), and would be given a Christmas party and a bonus at Christmas, that the employees would no longer be treated nicely if a union came in — they would not be able to buy Company sweaters cheaply, that if the employees went union, they would put a lock on the door, and the employees would be out on the street, that

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[10] For example, Gloria Maurice testified that there was no request to bargain made by Banyai at the September 20 meeting, but all the other witnesses, including Respondent witnesses Tramuta and Lipsenthal, were to the contrary. Laritza testified that she saw Banyai and Ruggiero come out of the office back into the shop, but it is plain from the testimony of the other witnesses, including Banyai himself, and Tramuta and Lipsenthal, that Banyai and Ruggiero went out the front door. It is hardly surprising, with so many witnesses testifying, that there were such discrepancies; indeed, the reverse would be surprising.

[11] There is some conflict as to the number of meetings conducted. I find there were at least two.

'We have got connections, we are going to find out who the people are that signed for this Union and we are going to get rid of them," and "Look, make up your mind if you want a Union or you want to work in here, you can't have both."

On several occasions employees had union literature taken from their hands and "ripped" as they came into the plant. In addition, in July, employee Mary Dorio was told by the DiBartolos that if the employees wanted a union, "he would bring his own union in, we should go talk to him." Ella Santiago was called into the office, also in July, where the DiBartolos accused her of "putting the union into the girls' heads," and told her that he was going to get more employees if the shop was unionized so that the employees would be laid off more often. At that time, he also gave Santiago a raise. Paula Limery, in early July, was asked by Vincent DiBartolo if she had belonged to a union before. When she said she had, DiBartolo said that unions were a bunch of racketeers, that they were good only for big companies, but not for small companies. Early in September, Vincent DiBartolo asked newly hired employee Romano if she belonged to the Union.

2. The Union's organizational drive

Early in August, the ILGWU began organizing Respondent's employees[12] and that Union had some 24 signatures on cards by September 20. During that period, the Union conducted four meetings of Respondent's employees, on August 14 and 27, and September 12 and 19. At the last of these meetings, Local 107 manager Ed Banyai and its agent Mary Ruggiero spoke to the employees, and secured the last few of the 24 signatures. It was agreed at the September 19 meeting that Banyai, Ruggiero, and a committee of employees, with Gloria Maurice, Ethel Fitzpatrick, Betty Benvenuto and Freda Tarsky

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[12] Employee Barbara Laufman, who was also a paid Union organizer, signed the first authorization card on July 21.

being selected as the committee, would come to the plant the next morning, in order to request Respondent to recognize the Union as the employees collective bargaining representative. Large ILGWU buttons were distributed, and the employees were asked by Banyai to put them on after the committee met with management officials.

3. The events of September 20

Shortly before 8 a.m. on September 20, Banyai and Ruggiero met the committee members in the plant parking lot. The six of them went into the employee entrance. Many of the employees at work put ILGWU buttons on at that time.[13] Banyai knocked at the office door, and the six were admitted. The DiBartolos, Lipsenthal, and Tramuta were in the office at the time. Banyai gave his business card to one of the DiBartolos. He said that Local 107 "represented the majority of the workers of Dee Knitting Mills, that we would be willing to prove this through a neutral party, and that w would like to make an appointment at a mutually convenient time and sit down and negotiate an agreement."[14] Charles DiBartolo responded that he had no time to meet, and told them to "get out." One of the Company officials said "What do you mean barging in here without an appointment?" Banyai answered that he had knocked, and when "someone said 'come in' and that is why I walked in." One of the DiBartolos said "These people don't belong here, they are all fired;" one said that he is "going to close the

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[13] Some apparently put them on as the committee reappeared in the plant, and someone, not clearly identified (one employee testified it was Freda Tarsky) said "Button up," or words to that effect. I need not resolve some minor discrepancies in the testimony of the various General Counsel witnesses in this respect, as they are immaterial to resolving the issues herein.

[14] Lipsenthal put Banyai's words as "something to the effect" of "We have a majority and we want to unionize the shop." Tramuta testified that Banyai said "I'm here to represent the girls." There is thus no question but that recognition was sought at the September 20 meeting. The quoted language in the text is from Banyai's testimony.

shop as of this moment." Lipsenthal then said "You get out of the shop, we want you out of here right away and go out the front way and the workers should go out the back way." Lipsenthal then pointed at Freda Tarsky and said "Your talk with a forked tongue, you told me you don't like unions. Get out, you are fired." Banyai remonstrated with the company officials, telling them to take it easy, that they were violating Federal labor laws. He told the committee to go back into the shop and go to work. Banyai and Ruggiero then went out the front door.[15]

The four committee members then went back through the shop. At about that time, with some employees putting on their ILGWU buttons then, approximately 17 employees, including the four committee members, were wearing buttons. Shortly thereafter, the DiBartolos came out into the work area, with Lipsenthal following a little later (see above). The DiBartolos ordered everyone wearing a union button to get out.[16] As employee Gloria Maurice put it, they said "Everybody out, everybody with green buttons on get out." Charles DiBartolo said "I will put a lock on the door before a Union will get in here." When Lipsenthal came on the scene, he repeated to Tarsky what he had said in the office, that she spoke "with a forked tongue," and told her that "if I wasn't a woman, he would know what to do with me." When Ella Santiago got up to leave, Charles DiBartolo said to her that she could go back to her machine, but when Santiago said "I am one of them, I have the button on," DiBartolo told her to get out also.

Employee Laritza did not actually have her ILGWU button on when the employees were told that those with buttons were fired, but was about to put

15 The quoted remarks are from Banyai's testimony. Ruggiero and the committee members confirmed the substance of that testimony.

16 The testimony indicates a good deal of shouting and confusion occurred. Although many of the employees had Lipsenthal, as well as the DiBartolos, telling employees with buttons on that they were fired, I find, in accordance with Lipsenthal's own testimony, that he came out somewhat later, and, although it is possible he may have repeated the admonition already given by the DiBartolos, I make no finding to that effect.

her button on. She too was told to get out. Employee Tramont, who was wearing a button, was not in the shop at the time, having gone out to her car to get something.

The employees who had been wearing buttons, including Laritza, left the shop and went out to the parking lot. They met Tramont returning to the shop, who, when told what had occurred, remained outside. Lipsenthal then emerged from the plant. He told the employees to get off the company's property, into the street, and that they belonged in the gutter. He spoke with Banyai, who by that time had come around to the parking lot, asking him to "come over here." Banyai refused, and Lipsenthal then said "Well, I will have someone take care of you." About an hour later, Local 107 sent Respondent a telegram, which read as follows:

> To employers, confirming our visit today, repeat demand for recognition as collective bargaining agent for Dee Knitting Mills, Inc. production and maintenance workers. We are prepared to prove our majority status. This is a continuous demand.

The afternoon of the same day, employee Pastore, who had been at the dentist during the events of the morning, returned to the shop, where she was met by employees Jackson, Laufman, Nolan and Benvenuto. Tramuta spoke to the group, asking them what the Union was going to do for them, and told them that if the Union did come in "they are going to go down the drain."[17] That afternoon, the employees began picketing the plant with signs saying that they were on strike for unfair labor practices. This picketing continued through the end of the year, and into January 1974.

4. Events after September 20

On September 21, a meeting was held at the Union offices, with Banyai, Ruggiero and the employee committee there on behalf of the Union, and the DiBartolos, Lipsenthal and a bookkeeper, Ellen Walker, there for the Company.

[17] This last quote was as Tramuta testified.

The main topic discussed was the alleged unfair labor practice of discharging the employees, with Banyai explaining what he considered an appropriate remedy — reinstatement, 2 days' backpay, and the posting of a notice. There was also discussion concerning the Company's financial position, with the Company officials indicating it was a poor company. Banyai indicated that he understood the problems of small new companies, and they could be handled, but insisted that nothing else could be discussed until the unfair labor practices were taken care of. At one point during the meeting Charles DiBartolo said that if he did not get his way, he would close the doors, that he would rather close the shop than sign anything.

Also on September 21, about noon, a station wagon driven by Salvatore DiBartolo drove into the driveway of the plant, and struck employee Rosetta Lyons, who was knocked unconscious. DiBartolo parked his car and went into the shop. Lyons filed a complaint against DiBartolo and sued him for damages. The criminal case against DiBartolo resulted in his being told the case would be dismissed in 6 months if "I have kept out of trouble."

It was stipulated that Respondent sent a letter to all the alleged discriminatees (apparently on September 21), asking them to come back to work, and that the letter was received or should have been received by the employees on September 22. The General Counsel stated that this was "a valid offer of reinstatement," but contended that the employees who continued to picket and strike were protesting the unfair labor practices, and that the strike continued as an unfair labor practice strike.

On September 26, another meeting was held, with Banyai and Ruggiero and attorney Al Koffler for the Union, and attorney James Weber for the Company. The meeting was again concerned primarily with a resolution of the unfair labor practice charges, with Banyai again explaining that these must be taken care of before any other matters were discussed.

5. The assistance to and recognition of Local 550

During September and October, Charles Reina, according to his own testimony, received Local 550 authorization cards from that union's secretary-treasurer, Sam DeBenedictis, signed one himself, and distributed approximately 31 of them to "employees." He received back all the cards, with signatures thereon. Late in October or early in November, DeBenedictis met with the DiBartolos, with Reina, who testified about this incident, present, and Vincent DiBartolo told DeBenedictis that he would recognize Local 550. There was no contract signed, as DeBenedictis said "he couldn't talk about contract or anything else until the unfair labor practice is taken care of."

C. Discussion and Conclusions

Preliminarily, there remain to be resolved the status of Charles Reina, the composition of the appropriate unit, and whether the Union had a majority in that unit.

1. Reina's status

The General Counsel contends, and Respondent denies, that Charles Reina was at all material times a supervisor within the meaning of Section 2(11) of the Act. The evidence shows that apart from the two "bosses," Charles and Vincent DiBartolo, Reina, who began working in July, was the only person who directed the 40-odd female employees on Dee's payroll.[18] When he started, he was introduced as the "new foreman" by the DiBartolos, as Reina himself, and many other witnesses, testified. Employees were told "Any questions you have you ask Charley," or "He is the boss, talk to him," or "He is the boss, he tells you what to do." Reina testified that he has recommended raises for employees, and the raises were granted in each case.

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[18] Tramuta, an admitted supervisor, was on Three D's payroll, and directed only the knitters. Lipsenthal, although an admitted agent of Respondent, and one of the bosses, had no official connection with the Dee employees, and apparently played no direct role in the day by day working operations of that segment of the work force.

Reina told employees on a number of occasions that he could hire and fire. He also assigns employees to their work stations, moving them when necessary, distributes their work, and generally oversees the production work of this group of employees. He is consulted by the DiBartolos as to how the work is progressing and what is going on in the shop, and is responsible to see that workers are used most effectively, and for the completion of the work each day and the quality of the work. He determines the capability of workers to perform at particular tasks and assigns them accordingly. He is called by employees (along with the DiBartolos) when they are not coming in to work, and is authorized to let employees off early. The record is replete with instances of Reina keeping order, and checking on employees' time in the washroom, at lunch time, and at coffee breaks, and he has reprimanded employees on many occasions for breaches in these respects. Reina receives a weekly salary, and does not punch a time-clock, in both respects differing from all the employees whom he directs.

All the above facts clearly establish that Reina, contrary to his own conclusory statement that he is a "working foreman," is a supervisor within the meaning of Section 2(11) of the Act.[19]

2. The appropriate unit

The unit, by stipulation of the parties, includes all production and maintenance and shipping employees of the Company, excluding office clerical employees, sales employees, guards, professionals, and supervisors. The category of "knitters" is in dispute, with the General Counsel claiming that they should be excluded from the unit, the Respondent that they should be included, and the Union taking no position on that question. The

[19] The fact that he has no authority to hire or fire employees, that on a single occasion he was paid for overtime work, and that safety was not "his responsibility" do not militate against the conclusion that he was a supervisor, for Section 2(11) is written in the disjunctive.

remaining disputes concern whether particular employees should be in the unit, for purposes of counting their organization cards or for measuring the Union's majority status by including them in the total complement on the unit. These latter questions are, in other words, tantamount to "eligibility to vote" determinations.[20]

It was stipulated that 24 named employees are properly included in the unit. Respondent would exclude, and the General Counsel and Union include, 9 employees hired between September 4 and September 17.[21] Respondent's position is that some or all of these employees were recent hires, and were "planted" by the Union, and hence were not bona fide employees. Respondent would exclude, the General Counsel and Union include, Barbara Laufman, with Respondent contending that her position as a paid Union organizer made her also not a bona fide employee. Respondent would also exclude, the General Counsel and Union include, Donna Baiera and Marie Foth, Respondent basing its position on the ground that they were not regular full-time employees as of the critical date of September 20, and the parties take the same position with respect to Loretta Paraino, with Respondent contending she should be excluded because she was off the payroll by September 20. The General Counsel and Union would exclude, Respondent include, employees Marie Reina and Frank Valenti. As to the former, the General Counsel and the Union contend she quit prior to the September 20 critical date; as to the latter, they contend he was not a regular employee.

The General Counsel argues that because the *knitters* are on the Three D payroll, rather than Dee's, have different hours (7 a.m. to 3:30 p.m. for the day shift rather than 8 a.m. to 4:30 p.m., as is the case for the other employees), have separate supervision, washroom and locker facilities, work in a separate area, perform different work, and receive higher rates of pay, they

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[20] Having determined that Reina is a supervisor, he is, of course, excluded from the unit.

[21] Rosa, Barbour, Lombardo, Bonanza, Jackson, Romano, Lyons, Spezia, and Nolan.

should be excluded from the unit. As I have found that the three companies constitute a single employer, the first factor does not apply. The differing rates of pay for the knitters as opposed to the other employees is attributable to their greater skills, but there is no showing that they are so highly skilled as to be considered craftsmen, nor have I been able to find any Board cases finding the category of knitters to be craftsmen. Some of the factors relied upon by the General Counsel are solely attributable to the fact that the knitters are men, the other employees women (which may also account in part for the pay differentials), and that is no basis at all separating them. As to the "separate area," since it consists of the knitters working at the far end of one large room, it is scarcely "separate" in any meaningful sense. In short, starting with the presumption that all employees of the employer are part of a production and maintenance unit, there have not been sufficient grounds shown here for excluding the knitters, and I include them.

Barbara Laufman, although she worked full-time for the Company starting about June 25, 1973, was admittedly a paid organizer for the Union, and has been for about two years. It is true, as the Union argues, that an employee does not lose his status because he is also paid to organize. See *Sears, Roebuck & Co.*, 170 NLRB 533, 535, fn. 3. The real question, as the cited case shows, is whether the employment itself was sought solely to organize, so that the employment is really only temporary, whether the employer knows it or not. Although there is no direct evidence in this case that Laufman intended to leave when her organizing job was completed (the question was never asked), and the issue is therefore not free from doubt, I am constrained to infer that such is the case, and shall not, accordingly, count her authorization card, or, of course, include her in the complement of the unit against which the Union's showing is to be measured.

As to the other *nine employees* who began work between September 4 and 17, there is no showing whatsoever to indicate that they were other than bona fide full-time employees. The recency of their hire alone is no basis for not finding them "eligible."[22] Accordingly, I shall include the 9 for purposes of the complement of the unit, and for counting their authorization cards.[23]

Marie Reina worked for the Company 35 hours the week ending September 14, did not work the week ending September 21, worked 7-1/2 hours the week ending September 29, 7 hours the week ending October 5, and 22-1/2, 0, 12, 15-1/2 and 14-1/4 hours in the successive weeks thereafter. There is also testimony that Marie Reina indicated, on September 14, that she was quitting to be a beautician. In view of her sporadic work record after September 20, the fact that she was not working on September 20, the critical date, and taking into account her statement that she was quitting, I conclude that Marie Reina was not "eligible," and shall not include her in the unit complement.

Frank Valenti was hired July 16, 1973 as a piece-work presser. He was paid during the weeks of July 20 through the week ending August 10, then not again until the weeks ending September 21 and 28, when there was another gap until the week ending 28, with Valenti being paid in four successive weeks, thereafter. Since, unlike Reina, he was employed on the critical date, September 20, and there is no evidence other than the stipulated figures, which also show many weeks of work thereafter, I find Valenti "eligible" and count him in the unit complement.

Laura Paraino began working for Respondent late in July or early in August 1973. She does not appear on the payroll after September 7, but it was

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22 Some were referred to Respondent by the Union, and had been members before. That does not even bear on the question of their status with this employer.

23 I note that at least two of the knitters were hired in the week of September 20, Alcalde on September 14, and Suarez on September 17, and I have included them in the unit.

stipulated that there is nothing in Respondent's records to indicate any reason why she left work. On the other hand, Paraino told Barbara Laufman that she was ill, with pains in her chest and back, the day she left work, and Laufman saw her again a short time before September 20, and she was in bed ill at the time. I conclude on these admittedly minimal facts that Paraino was "eligible" and count her in the unit complement.

The final two "eligibility" issues concern *Donna Baiera* and *Marie Foth.* Both were high school students, hired the beginning of the summer, who worked more or less full-time from the week ending June 22 through the week ending August 24, and part-time the weeks of Septemebr 14 and 21 after returning to school. Toward the end of August, Baiera asked whether she and Foth could take two weeks off in order to get ready to return to school, and be able to work part-time thereafter. Reina apparently checked with "the boss," and then told Baiera that they (she and Foth) could take the 2 weeks off and then return on a part-time basis. I find that both Baiera and Foth were regular part-time employees, and as such "eligible" and to be counted in the unit complement. See *Cromwell Printery Inc.*, 172 NLRB 1817, 1831.

Based on the foregoing, the complement of the unit includes the 24 employees stipulated as properly in the unit, the 4 knitters,[24] the 9 employees hired between September 4 and September 17 whom the Company would exclude,[25] Loretta Piraino, Frank Valenti, Donna Baiera, and Marie Foth. The total complement of the unit on the critical date of September 20 was therefore 41.

3. The Union's majority status

Apart from the unit contentions just resolved, Respondent does not appear to challenge the validity or authenticity of the General Counsel's authorization

[24] Louis Milazzo, Phillip Lombardo, Omar Suarez and Michael Alcalde.

[25] See footnote 21 *supra.*

cards (24 in number) submitted at the hearing.[26] However, there seemed to be some question at the hearing about the cards of Marie Foth, Loretta Piraino and Martha Jean. As to Foth, her card was solicited by Donna Baiera, who testified that she told Foth about the Union, and about her signing a card if she wanted to, and Foth then did sign an authorization card, gave it to Baiera, who in turn gave it to Barbara Laufman. Piraino's card was solicited by Laufman, who testified to the manner of her solicitation, and Piraino's signing the card. Martha Jean's card was solicited by Union business agent Ruggiero, with two other Union agents, including Laufman, present at the time. With respect to all three employees, the solicitor explained the purpose of the card as being to have the Union represent the employees.

All other card signers appeared as witnesses, and there is no possible basis for not counting their cards. Nor, based on the credible testimony recited above, is there any basis for refusing to accept the cards of Foth, Piraino, and Jean, even though they themselves did not testify. I find, accordingly, that on September 20, the day the Union requested recognition, the Union had valid authorization cards signed by 23 of the 41 employees in the unit as of that day. The Union therefore represented a majority of Respondent's employees in a unit appropriate for the purposes of collective bargaining on and after September 20, 1973.

4. The alleged 8(a)(1) violations

The facts reported above show that Respondent violated Section 8(a)(1) of the Act by its conduct in reacting to organization efforts by the Teamsters, and by Local 231 in July and August 1973. In summary, Respondent's officials threatened its employees with reprisals up to and including closing the plant, as well as the removal of various benefits, if a union should come in, coerced them by ripping up union literature they were holding, and unlawfully

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[25] No mention thereof is made in Respondent's brief.

promised them benefits if they did not get a union, and told them if they wanted a union, they should speak to the bosses, who would bring a union in.

During that time and up through the early part of September, Respondent also violated Section 8(a)(1) by unlawfully interrogating its employees about their union membership, past and present.

I do not, however, agree with the General Counsel that certain remarks by Reina, Lipsenthal, or the DiBartolos constituted creating the impression surveillance, and dismiss that allegation of the complaint. Reina's statement on September 20 that he knew who had caused the trouble because he had "Clark Gable ears" neither connotes nor denotes anything unlawful, nor does Vincent DiBartolo's statement in July that he heard "rumors" that employees Santiago had put the idea of a union into the women's heads. Similarly, Lipsenthal asking employees to bring him Local 231 literature so he could see it, and the DiBartolos that they were going to find out who signed for Local 231, do not support this allegation, although the latter statement could well be included as a veiled threat among the violations already found.

After September 20, Respondent also violated Section 8(a)(1). Although I have some doubts whether Salvatore DiBartolo's car hitting Rosetta Lyons was deliberate, the failure of DiBartolo to stop, and the fact of the hitting, evinces sufficient negligence, and is sufficiently threatening in nature to Lyons and the onlookers, so as to constitute a violation of Section 8(a)(1). The repetition, shortly after the critical incidents on the morning of September 20, of the Company view, this time expressed by supervisor Charles Reina, that the employees should have come to him if they wanted a union, also constitutes a violation of Section 8(a)(1). Also violative of the Act, on and after September 20, were Lipsenthal's veiled threat to Banyai, with the employees present, that he knew people who could take care of Union officials, and that he would "show"

Banyai if the latter came inside the shop, Tramuta's interrogation of four or five employees the afternoon of September 20, Reina's interference with the strikers by picking up a picket sign and bringing it into the shop (where the police later retrieved it for the pickets), Reina's threatened violence to Barbara Laufman, and the attempts by Reina to interfere with the picketing by turning on the sprinkler system. Finally, Respondent violated Section 8(a)(1) by DiBartolo's (one or the other) statements in the shop on September 20 that the plant doors would be locked before the Union got in, and at a conference on September 21 that he would rather close the shop than sign the Union.

5. The alleged 8(a)(2) violations

As noted above, the fact that Reina distributed Local 550 cards to some 31 persons, receiving back 31 signed cards, was admitted by Reina. Significantly, at least 14 of these cards were dated before the signers were even employed by the Company. As I have found Reina to be a supervisor, these solicitations were clearly unlawful, as was the subsequent recognition of Local 550 by the Company about the 1st of November.[27] By this conduct, the Respondent violated Section 8(a)(2) and (1) of the Act.

6. The alleged 8(a)(3) violations

The facts set forth above show that the DiBartolos, reacting to the request for recognition by Banyai at the meeting with Banyai, Ruggiero, and the four employees on the committee the morning of September 20, told the committee members to get out, that they were fired, and shortly thereafter came out into the shop and ordered all employees wearing ILGWU buttons to get out, that they also were fired. On the face of it, this represents a clear violation of Section 8(a)(3).

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[27] No negotiations were conducted, and no contract was signed. According to Reina, DeBenedictis told Vincent DiBartolo that "he wouldn't talk about contract or anything else until the unfair labor practice is taken care of."

Respondent's defense, apart from the asserted factual denials with which I have already dealt, is essentially to the effect that the Union "set up" the Company, that it planned and orchestrated the employees' conduct that morning in the hope and expectation that the Company officials would react as they did, and that the employees would have walked out anyway, to seek recognition, if Respondent's officials had not taken the bait. Assuming the complete factual accuracy of Respondent's position in this respect,[28] that would not militate against the *prima facie*, the clear, violation of Section 8(a)(3) inhering in Respondent's conduct that day. The earlier reactions to Local 231 and the Teamsters' attempts to organize, the later unlawful solicitations of Local 550 cards and the unlawful recognition accorded Local 550, and the contemporaneous statements concerning closing the plant, or locking the doors, before a union would get in, or before any contract with a union would be signed, all manifest a fixed position to keep out any union, by whatever unlawful means were necessary. Thus, the fact that Respondent's reactions were predictable stems not from any possible entrapment, but from their own conduct. I conclude, accordingly, that Respondent violated Section 8(a)(3) and (1) of the Act by discharging the committee members and the button wearers (the former are also included among the latter) on September 20.[29]

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[28] And there are some indications to support it; e.g., employees were told by Banyai at the union meeting the evening before to put their buttons on when the committee came out of the office, the employees did not return to work despite offers of reinstatement and statements by the DiBartolos that they should come back to work, they were not "fired," and one employee, Freda Tarsky, testified that at the September 19 meeting, Banyai said that if the Company "won't negotiate, then we have to strike."

[29] I conclude employee Laritza among the employees discriminatorily discharged as she was in the shop and about to put her button on when the DiBartolos fired all button wearers. I do not, however, include Tramont, who was temporarily out of the shop. Even though it is clear that she would have been discharged along with the others had she been present, she was not in fact discharged, but merely stayed out when she heard from other employees what had occurred.

7. The Alleged 8(a)(5) Violations

As found above, the Union represented a majority of the employees in an appropriate unit when it sought recognition on September 20. In the light of the violations of the Act found herein, and particularly in view of the unlawful assistance to and recognition of Local 550 after recognition was denied the ILGWU the possibility of a free election, even with the effects of the unfair practices diminished by appropriate remedies, seems remote. Indeed, this seems to be a classic case for concluding, as I do, that the only available effective remedy is a bargaining order. See *N.L.R.B. v. Gissell Packing Company*, 395 U.S. 575, 614; *Skaggs Drug Centers, Inc.*, 179 NLRB No. 171; *Soil Machanics Corp.*, 200 NLRB No. 60. I conclude, accordingly, that Respondent violated Section 8(a)(5) and (1) of the Act by refusing, on September 20, 1973, to recognize the Union.

8. The Nature of the Strike

As noted above, the discharged employees, as well as other employees who signed union authorization cards, began picketing the plant the afternoon of September 20. Although the discriminatees were all, on September 22, offered reinstatement, there is nothing in the record to suggest that they were offered backpay, nor is there any evidence that Respondent was seeking to remedy its unlawful refusal to bargain, or its various statements and conduct found herein to have violated Section 8(a)(1) of the Act. In these circumstances, all the employees who remained on strike, including the discriminatees offered reinstatement, were clearly unfair labor practice strikers, and I so find. As such, of course, they are entitled to reinstatement upon application. *N.L.R.B. V. Safeway Steel Scaffolds Company*, 383 F.2d 273, 280-281 (C.A. 5) *Blue Valley Machine & Mfg. Co.*, 180 NLRB 298, 305-306.

Conclusions of Law

1. By unlawfully interfering with, restraining, and coercing its employees, as found herein, Respondent has engaged in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

2. By unlawfully soliciting authorization cards for Local 550, International Union of Maintenance and Production Workers, and by extending recognition to that labor organization, Respondent has engaged in unfair labor practices within the meaning of Section 8(a)(2) and (1) of the Act.

3. By discriminating against its employees because of their union or other concerted activities, Respondent has engaged in unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act.

4. By refusing to bargain with the Union, and after September 20, 1973, when the Union represented a majority of the employees in the appropriate unit described above, Respondent has engaged in unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act.

5. The strike which began September 20, 1973, was caused by Respondent's unfair labor practices, and hence was an unfair labor practice strike.

6. The aforesaid unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

The Remedy

Having found that Respondent has engaged in certain unfair labor practices, I shall recommend that it cease and desist therefrom, and that it take certain affirmative action necessary to remedy the unfair labor practices and to effectuate the policies of the Act. Including in this affirmative action will be a recommendation that Respondent make whole the discriminatorily discharged employees for losses they suffered as a result of the discrimination against them, with the payment of interest as prescribed in *Isis Plumbing & Heating Co.*, 138 NLRB 716. As Respondent offered reinstatement to these discharged employees on September 22, 1973, and they chose to remain on strike, the backpay due them as a result of the discrimination shall not extend beyond that time. However, as the strike was an unfair labor practice strike,

I shall recommend that Respondent be ordered to reinstate the strikers, upon their application for reinstatement, to their former or substantially equivalent positions, discharging, if necessary, any replacements in order to provide work for the strikers, and to make those strikers entitled to reinstatement whole for any loss of pay they may suffer by reason of Respondent's refusal, if any, to reinstate them upon request, by payment to each of them a sum of money equal to that which he normally would have earned as wages during the period beginning 5 days after the date on which he applies for reinstatement and terminating on the date of Respondent's offer of reinstatement, such loss to be computed in the manner set forth above for computing backpay.

In view of the serious nature of the unfair labor practices which Respondent has committed, I shall recommend that it be ordered to cease and desist from infringing in any manner upon the rights guaranteed in Section 7 of the Act. Except to this extent, and in the issuance of a bargaining order, I see nothing so unusual or egregious in this case as to require the extraordinary remedies sought by the Charging Party.[30]

Upon the foregoing findings of fact, conclusions of law, and the entire record, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended:[31]

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[30] I.e., that Respondent's President be required to read the Board's notice; that the notice be mailed to each employee's home, and be published in newspapers of general circulation in the area; that Respondent pay the Union for its organizational and strike expenses, and pay the Board and the Union for the costs of investigating and prosecuting this case, and that the Union be permitted access to Company bulletin Boards for one year, and Union organizers be permitted access to the company parking lot for solicitation and distribution of literature.

[31] In the event no exceptions are filed as provided by Section 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Section 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

ORDER

Respondents, Dee Knitting Mills, Inc., Dippy Knits, Inc., and Three D Knitting Mills, Inc., Farmingdale, New York, their officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Threatening its employees with reprisals if they should select a union to represent them.

(b) Promising employees benefits to dissuade them from union representation.

(c) Coercively interrogating its employees about their union membership.

(d) Assaulting, or otherwise threatening its employees with violence because of their union activities.

(e) Suggesting to employees that the Company would supply a union for them.

(f) Interfering with lawful strike activities of its employees by threats, violence, and other acts and conduct.

(g) Soliciting employees to sign authorization cards for Local 550, International Union of Maintenance and Production Workers.

(h) Recognizing Local 550 as the representative of its employees for the purposes of collective bargaining, unless and until said labor organization has been certified by the National Labor Relations Board as the exclusive bargaining representative of such employees.

(i) Discharging or otherwise discriminating against any employee because of his membership in or his activities on behalf of International Ladies' Garment Workers' Union, AFL-CIO, or any other labor organization.

(j) Refusing to recognize International Ladies' Garment Workers' Union, AFL-CIO, as the exclusive collective-bargaining representative of its employees in the following appropriate unit:

All production, maintenance, and shipping employees, including knitters, but excluding office clerical employees, sales employees, guards, professionals, and supervisors.

(k) In any other manner interfering with, restraining, or coercing its employees in the exercise of their rights guaranteed by the Act.

2. Take the following affirmative action which is necessary to effectuate the policies of the Act:

(a) Withdraw and withhold recognition from Local 550, International Union of Maintenance and Production Workers unless and until said labor organization has been certified by the National Labor Relations Board as the exclusive bargaining representative of such employees.

(b) Make whole its discriminatorily discharged employees in the manner set forth in the section entitled "The Remedy."

(c) Upon application, offer to its striking employees reinstatement to their former or substantially equivalent positions, and make them whole for Respondent's refusal, if any, to reinstate them upon request, in the manner set forth in the section entitled "The Remedy."

(d) Preserve and, upon request, make available to the Board or its agents, for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all records necessary to analyze the amount of backpay due under the terms of this Order.

(e) Upon request, recognize and bargain with International Ladies' Garment Workers' Union, AFL-CIO, as the exclusive collective bargaining representative of its employees in the aforesaid appropriate unit, and, if any understanding is reached, embody such understanding in a signed agreement.

(f) Post at its premises in Farmingdale, New York, copies of the attached notice marked "Appendix."[32] copies of said notice, on forms provided by the Regional Director for the 29th Region of the Board, after being duly signed by Respondent's authorized representative, shall be posted by it immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices are customarily posted. Reasonable steps shall be taken by Respondent to ensure that said notices are not altered, defaced, or covered by any other material.

(g) Notify the Regional Director for Region 29, in writing, within 20 days from the receipt of this Decision, what steps Respondent has taken to comply herewith.

Dated at Washington, D.C. April 29, 1974.

/s/ Melvin J. Welles

Melvin J. Welles
Administrative Law Judge

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32 In the event that the Board's Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BAORD" shall be changed to read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

FORM NLRB-4727
(9-69)

JD-276-74

NOTICE TO EMPLOYEES

POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD

AN AGENCY OF THE UNITED STATES GOVERNMENT

WE WILL NOT threaten employees with reprisals if a union comes in.

WE WILL NOT promise benefits to our employees to discourage support of a union.

WE WILL NOT question employees about their union membership or activities.

WE WILL NOT assault our employees or threaten them with violence because of their union activities.

WE WILL NOT interfere with our employees on strike by threats, violence, or in any other manner.

WE WILL NOT suggest to our employees that the Company will supply a union for them.

WE WILL NOT solicit our employees to sign authorization cards for Local 550, International Union of Maintenance and Production Employees.

WE WILL NOT recognize Local 550 as the representative of our employees unless and until that union has been certified as such by the National Labor Relations Board.

WE WILL NOT discharge our employees for their membership in or activities on behalf of International Ladies' Garment Workers' Union, AFL-CIO, of any other labor organization.

WE WILL bargain collectively with International Ladies' Garment Workers' Union, AFL-CIO, as the representative of our employees in the following bargaining unit:

> All production, maintenance, and shipping employees, including knitters, but excluding office clerical employees, sales, employees, guards, professionals, and supervisors.

WE WILL pay the employees discharged on September 20, 1973, for the losses the suffered as a result of the discharge.

WE WILL, upon their application, reinstate to their old or equivalent jobs all employees who went on strike on September 20, 1973, and who have not already been reinstated to such jobs.

WE WILL pay all strikers for any wage losses they suffered because of our refusal, if any, to reinstate them.

WE WILL NOT in any other manner interfere with, restrain, or coerce our employees in the exercise of their right to join or assist any union, or otherwise engage in union activities.

DEE KNITTING MILLS, INC.,
DIPPY KNITS, INC.,
THREE D KNITTING MILLS, INC.
(Employer)

Dated _____ BY _____ _____
(Representative) (Title)

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office,

16 Court Street - 4th Floor, Brooklyn, New York 11241

(Tel. No. 212 - 596-3535).

[dated June 19, 1974]

* * * * *

RESPONDENTS' EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE'S DECISION

FIRST EXCEPTION

1. The Judge erred in finding by inference that certain employees of respondents were discharged on September 20th, 1973, (Decision, p. 6, lines 18-24; Tr. p. 956, lines 5-10; p. 668, lines 16-18; p. 957, lines 2-3; Decision p. 18, lines 37-39). The finding which is not in accord with the evidence is negated by the very wording of the Decision.

SECOND EXCEPTION

2. The Judge erred in wholly crediting the testimony of General Counsel's witnesses while noting, and then, ignoring, admitted discrepancies. (Decision p. 6, lines 26-27, 44-46). The finding is bottomed on a fallacious premise.

THIRD EXCEPTION

3. The Judge erred in making a finding based on the testimony of a layman witness on a legal issue which, admittedly, said witness did not comprehend. (Decision p. 11, lines 5-7. Tr. p. 946, lines 7-8). This finding disregarded both the Judge and Counsel for Respondents.

FOURTH EXCEPTION

4. The Judge erred in finding that Respondent, through the medium of Salvatore Di Bartolo, violated Section 8(a)(1). (Decision p. 171, lines 6-12. Tr. p. 929). The finding is negated in the Decision.

FIFTH EXCEPTION

5. The Judge erred in considering, adversely for Respondents' interest, the fact that two of its representatives did not testify while completely disregarding a like fact on the part of the charging party. (Decision p. 4, lines

22-23; p. 5, lines 26-27; Tr. p. 1011, lines 7-10; pp. 889-926; p. 1012, lines 21-24; p. 992-1001). Even if the principle enunciated by the Judge is legally correct, it ignored certain facts and was inequitably applied.

SIXTH EXCEPTION

6. The Judge erred in issuing a bargaining order in the following respects:

(a) By failing to properly assess the Charging Party's position on this issue. (Decision p. 10, lines 41-43; Tr. p. 689, lines 6-9).

(b) By accepting cards of those who did not testify. (Decision p. 16, lines 18-20).

(c) By overlooking his own reasoning. (Decision p. 18, lines 17-18, fn. 28.)

The facts and circumstances are not of a level which requires a bargaining order.

Respectfully submitted,

SALTZMAN & BOGUT, ESQS.
Attorneys for Respondents
550 W. Old Country Rd.
Hicksville, N.Y. 11801
516 681-3460

Dated: Hicksville, N.Y.
June 17th, 1974

John P. Rowan, Esq.
Of Counsel

[dated November 19, 1974]

* * * * *

DECISION AND ORDER

On April 29, 1974, Administrative Law Judge Melvin J. Welles issued the attached Decision in this proceeding. Thereafter, the General Counsel, the Charging Party, and the Respondent filed exceptions and supporting briefs.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings,[1] and conclusions of the Administrative Law Judge and to adopt his recommended Order except as modified below.

We find merit in the General Counsel's and the Charging Party's exception to the Administrative Law Judge's finding and conclusion that employee Barbara Laufman was not in the appropriate bargaining unit; her card, on behalf of I.L.G.W.U., AFL-CIO, was not to be counted; she had sought employment with Respondent solely to organize and her employment was really only temporary; and she intended to leave her job when her organizing job was completed.

Barbara Laufman worked for Dee Knitting Mills from about June 25, 1973, until September 20, 1973, when she was discharged for union activity, along with some 18 other employees. During that period, she cleaned and examined sweaters and worked at the cutter's table, on sewing machines, and at the packing table. She was paid $2 an hour. At the same time that Laufman was working full time for the Company, she continued her activities as a paid union organizer, a job she held for about 2 years. Starting in early August, she began organizing Dee employees for the Union.

The Administrative Law Judge notes, and we agree, that an employee does not lose his status because he is also paid to organize. See *Sears Roebuck & Co.*, 170 NLRB 533, 535, footnote 3. The real question, as the cited case shows, is whether the employment itself was solely to organize, so that the employment is really only temporary, whether the employer knows it or

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[1] The Respondent has excepted to certain credibility findings made by the Administrative Law Judge. It is the Board's established policy not to overrule an Administrative Law Judge's resolutions with respect to credibility unless the clear preponderance of all of the relevant evidence convinces us that the resolutions are incorrect. *Standard Dry Wall Products, Inc.*, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (C.A. 3, 1951). We have carefully examined the record and find no basis for reversing his findings.

not. Although the Administrative Law Judge conceded that there was no direct evidence on the point, he felt constrained to infer that she sought the job only to organize.

Laufman worked for the Employer for 3 months, longer than some employees found to be properly included in the unit. Nothing was said when she was hired, or at any other time, that her employment was of fixed duration. She had exactly the same duties as the unit employee, worked the same hours, and earned the same rate of pay. There is no evidence to show that Laufman took the job solely to organize, nor is there any evidence to show that she was not a bona fide full-time employee. Therefore, we find that the Administrative Law Judge erred when he drew the inference that her employment was only temporary and that her authorization card should not be counted. Accordingly, we find that Laufman's authorization card should be counted and she should be included in the bargaining unit.

We also find merit in the General Counsel's exceptions to the Administrative Law Judge's failure to find that Respondent's actions regarding employee Ella Santiago violated Section 8(a)(1) of the Act. In July 1973, after Local 231, Industrial Trade Union, AFL-CIO, had distributed leaflets, either Vincent or Charles DiBartolo stated he had heard rumors that Santiago was "putting the Union into the girls' heads." Charles DiBartolo stated he was going to be a "bitch" if the Union came in, and that he was going to get more employees if the shop was unionized so that the incumbent employees would be laid off more often. During this discussion, DiBartolo granted Santiago a wage increase. We find DiBartolo's conduct constituted a threat of layoff, created an impression of surveillance of Santiago's union activities, and that the grant of a wage increase to her at that same time was a benefit designed to induce her to refrain from protected activities in violation of Section 8(a)(1) of the Act. The raise given to Santiago, a prounion employee, was made in the context of other antiunion unfair labor practices, including a threat of loss of work

if the Union represented the employees. In such circumstances, the raise was clearly designed to induce Santiago to support the Employer's antiunion position and to refrain from further protected union activity. Since the Administrative Law Judge failed to provide an appropriate remedy therefor, we shall modify his recommended Order to include this violation of the Act.

Further, we find merit in the General Counsel's exception that the Administrative Law Judge failed to find that employee Doris Tramont was discharged along with the other employees who were wearing the I.L.G.W.U. buttons. The record shows that DiBartolo ordered everyone wearing a union button to get out (of the shop). However, employee Tramont, who was wearing a button, was not in the shop at the time, having gone out to her car to get something. The employees who had been wearing buttons left the shop and went out to the parking lot. They met Tramont returning to the shop, who, when told what had occurred, remained outside. As the employees stood outside the shop, Lipsenthal, secretary-treasurer and director of Dippy, who has been involved in the personnel and labor relations of Dee, along with DiBartolo, came out and told the employees to get off the property and into the street, and that they belonged in the gutter. The Administrative Law Judge would not include Tramont among the employees discriminatorily discharged as she was temporarily out of the shop, even though he finds it is clear that she would have been discharged along with the others had she been present. He found she was not in fact discharged, but merely stayed out when she heard from other employees who had occurred.

We find, contrary to the Administrative Law Judge, that Tramont was discriminatorily discharged for engaging in concerted protected activities. The record facts show that the Respondent announced that all employees wearing I.L.G.W.U. buttons were discharged; that Tramont was indisputably wearing such a button; that she had momentarily stepped out of the shop when the order of discharge was given; that she was then advised of the mass discharge

by the other employees; that she concluded that she was also discharged; and that she, along with the other discriminatees, was ordered off the property and into the street. In these circumstances, it would strain credulity to conclude that Tramont was not in fact discharged for engaging in protected concerted activities. Tramont plainly maintained her support of the Union in the face of Respondent's unlawful action. To require her to reenter the plant after she learned of this action, to determine whether Respondent would repeat it with respect to her individually and with no evidence to indicate Respondent's sweeping order and abusive language did not apply to her, as by its terms it clearly did, seems to us an exercise in form and futility.

For the reasons stated by the majority in *Steel-Fab, Inc.*, 212 NLRB No. 25, we do not adopt the Administrative Law Judge's finding that Respondent violated Section 8(a)(5) of the Act, but rather we find in accord with *Steel-Fab* that the Respondent's violations of Section 8(a)(1) and (3) of the Act alone constitute the basis for the remedial order.[2] We shall modify the Administrative Law Judge's recommended Order and notice accordingly.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that Respondent, Dee Knitting Mills, Inc., Dippy Knits, Inc., and Three D Knitting Mills, Inc., Farmingdale, New York, its officers, agents, successors, and assigns, shall take the action set forth in the said recommended Order, as modified below:

1. Substitute the following for paragraph 1(b):

"(b) Promising employees benefits and granting wage increases to dissuade them from union representation."

---

[2] For the reasons set forth in his concurring and dissenting opinion in *Steel-Fab, Inc., supra*, Member Jenkins would find a violation of Sec. 8(a)(5), as did the Administrative Law Judge.

2. Delete paragraph 1(j) and reletter the following paragraph accordingly.

3. Substitute the following as paragraph 2(e):

"(e) Upon request, recognize and bargain with International Ladies' Garment Workers' Union, AFL-CIO, as the exclusive collective-bargaining representative of its employees in a unit of all production, maintenance, and shipping employees, including knitters at its Farmingdale, New York, plant, but excluding office clerical employees, sales employees, guards, professionals, and supervisors as defined in Section 2(11) of the Act, respecting rates of pay, wages, hours, or other terms and conditions of employment and, if an understanding is reached, embody such understanding in a signed agreement."

4. Substitute the attached notice for that of the Administrative Law Judge.

Dated, Washington, D.C. November 19, 1974.

Howard Jenkins, Jr., Member

John A. Penello, Member

National Labor Relations Board

(SEAL)

CHAIRMAN MILLER, concurring in part and dissenting in part:

I join Member Penello in the modifications of the Administrative Law Judge's findings, Order, and notice in the final paragraph of the opinion herein.

I do not agree, however, with the other modifications which my colleagues have made, and, except as indicated in the above paragraph, would adopt all of the findings, conclusions, and recommendations of the Administrative Law Judge, for the reasons given by him.

Dated, Washington, D.C. November 19, 1974.

Edward B. Miller, Chairman

National Labor Relations Board

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

WE WILL NOT threaten employees with reprisals if a union comes in.

WE WILL NOT promise benefits nor grant wage increases to our employees to discourage support of a union.

WE WILL NOT question employees about their union membership or activities.

WE WILL NOT assault our employees or threaten them with violence because of their union activities.

WE WILL NOT interfere with our employees on strike by threats, violence, or in any other manner.

WE WILL NOT suggest to our employees that the Company will supply a union for them.

WE WILL NOT solicit our employees to sign authorization cards for Local 550, International Union of Maintenance and Production Employees.

WE WILL NOT recognize Local 550 as the representative of our employees unless and until that union has been certified as such by the National Labor Relations Board.

WE WILL NOT discharge our employees for their membership in or activities on behalf of International Ladies' Garment Workers' Union, AFL-CIO, any other labor organization.

WE WILL, upon request, bargain collectively with International Ladies' Garment Workers' Union, AFL-CIO, as the representative of our employees in the following bargaining unit:

> All production, maintenance, and shipping employees, including knitters, but excluding office clerical employees, sales employees, guards, professionals, and supervisors.

WE WILL pay the employees discharged on September 20, 1973, for the losses they suffered as a result of the discharge.

WE WILL, upon their application, reinstate to their old or equivalent jobs all employees who went on strike on September 20, 1973, and who have not already been reinstated to such jobs.

WE WILL pay all strikers for any wage losses they suffered because of our refusal, if any, to reinstate them.

WE WILL not in any other manner interfere with, restrain, or coerce our employees in the exercise of their rights to joint or assist any union, or otherwise engage in union activities.

DEE KNITTING MILLS, INC.,
DIPPY KNITS, INC.,
THREE D KNITTING MILLS, INC.
(Employer)

Dated _____ By _____
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material.

Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 16 Court Street, Fourth Floor, Brooklyn, New York 11201, Telephone 212-596-3535.

GENERAL COUNSEL'S EXHIBIT NO. 2

I[illegible]NATIONAL LADIES' GARMENT WORKERS' U[illegible]N

AFFILIATED WITH THE A.F.L.-C.I.O.

AUTHORIZATION CARD

I, of my own free will, hereby authorize the INTERNATIONAL LADIES' GARMENT WORKERS' UNION, its affiliates and its representatives, to act exclusively as my agent and representative for the purpose of collective bargaining.

Print Name GLORIA MAURICE

Address 1190 DIXON AVE
(Street and Number)

City COPIAGUE State NY

Employed by DEE KNITWEAR

Employer's Address 1650 NEW HIGHWAY FARM

Signature Gloria Maurice Date AUG 14 1973

Form AD 78D-A

GENERAL COUNSEL'S EXHIBIT NO. 4

I[illegible]NATIONAL LADIES' GARMENT WORKERS' U[illegible]ON

AFFILIATED WITH THE A.F.L.-C.I.O.

AUTHORIZATION CARD

I, of my own free will, hereby authorize the INTERNATIONAL LADIES' GARMENT WORKERS' UNION, its affiliates and its representatives, to act exclusively as my agent and representative for the purpose of collective bargaining.

Print Name Ethel Fitzpatrick

Address 1026 N. Broadway
(Street and Number)

City N. Massapequa State L.I. N.Y.

Employed by Dee Knitwear

Employer's Address 1650 New Highway

Signature Ethel Fitzpatrick Date Aug. 14, 1973

Form AD 78D-A

GENERAL COUNSEL'S EXHIBIT NO. 5

I[illegible]RNATIONAL LADIES' GARMENT WORKERS' U[illegible]ION

AFFILIATED WITH THE A.F.L.-C.I.O.

AUTHORIZATION CARD

I, of my own free will, hereby authorize the INTERNATIONAL LADIES' GARMENT WORKERS' UNION, its affiliates and its representatives, to act exclusively as my agent and representative for the purpose of collective bargaining.

Print Name FANNY SPEZIA

Address 27 WALBRIDGE AVE
(Street and Number)

City BAY SHORE State N.Y. 11706

Employed by DEE KNITS MILLS

Employer's Address 1650 NEW HY WAY FARMINGDA

Signature Fanny Spezia Date 9-19-1973

Form AD 78D-A

GENERAL COUNSEL'S EXHIBIT NO. 6

I: :NATIONAL LADIES' GARMENT WORKERS' U' :N

AFFILIATED WITH THE A.F.L.-C.I.O.

AUTHORIZATION CARD

I, of my own free will, hereby authorize the INTERNATIONAL LADIES' GARMENT WORKERS' UNION, its affiliates and its representatives, to act exclusively as my agent and representative for the purpose of collective bargaining.

Print Name Angela Rosa

Address 271 Curtin Ave (Street and Number)

City West Islip 11795 State NY.

Employed by Dee

Employer's Address 1650 New Sig ...

Signature Angela Rosa Date 8/10/73

Form AD 78D-A

GENERAL COUNSEL'S EXHIBIT NO. 8

I: :NATIONAL LADIES' GARMENT WORKERS' U' :N

AFFILIATED WITH THE A.F.L.-C.I.O.

AUTHORIZATION CARD

I, of my own free will, hereby authorize the INTERNATIONAL LADIES' GARMENT WORKERS' UNION, its affiliates and its representatives, to act exclusively as my agent and representative for the purpose of collective bargaining.

Print Name MARY Lou Pastore

Address 1436 11th St W B (Street and Number)

City Long Island State

Employed by Dee Knitting

Employer's Address 1650 West Highway Farmingdale

Signature Mary Lou Pastore Date Aug 23 1973

Form AD 78D-A

GENERAL COUNSEL'S EXHIBIT NO. 9

INTERNATIONAL LADIES' GARMENT WORKERS' UNION

AFFILIATED WITH THE A.F.L.-C.I.O.

AUTHORIZATION CARD

I, of my own free will, hereby authorize the INTERNATIONAL LADIES' GARMENT WORKERS' UNION, its affiliates and its representatives, to act exclusively as my agent and representative for the purpose of collective bargaining.

Print Name Betty Benvenuto

Address 84 E fourth Street (Street and Number)

City Deer Park State Newyork

Employed by Dee knit mills

Employer's Address 1650 New Highway Farmingdale

Signature Betty Benvenuto Date Aug 23, 1973

Form AD 78D-A

GENERAL COUNSEL'S EXHIBIT NO. 10

INTERNATIONAL LADIES' GARMENT WORKERS' UNION

AFFILIATED WITH THE A.F.L.-C.I.O.

AUTHORIZATION CARD

I, of my own free will, hereby authorize the INTERNATIONAL LADIES' GARMENT WORKERS' UNION, its affiliates and its representatives, to act exclusively as my agent and representative for the purpose of collective bargaining.

Print Name FREdA. TARSKy

Address 255 Edmunton DRIVE. (Street and Number)

City North Babylon State new york.

Employed by Dee knitting mill

Employer's Address 1650 new High way. Farm-

Signature Freda Tarsky Date 20-8-1973.

Form AD 78D-A

GENERAL COUNSEL'S EXHIBIT NO. 11

INTERNATIONAL LADIES' GARMENT WORKERS' UNION

AFFILIATED WITH THE A.F.L.-C.I.O.

AUTHORIZATION CARD

I, of my own free will, hereby authorize the INTERNATIONAL LADIES' GARMENT WORKERS' UNION, its affiliates and its representatives, to act exclusively as my agent and representative for the purpose of collective bargaining.

Print Name MARY DORIO

Address 904 54 Street West Babylon (Street and Number)

City N Y State N.Y

Employed by Dee Knitting

Employer's Address 1650 New Highway Farmingdale

Signature Mary Dorio Date 8/27/1973

Form AD 78D-A 490

GENERAL COUNSEL'S EXHIBIT NO. 12

INTERNATIONAL LADIES' GARMENT WORKERS' UNION

AFFILIATED WITH THE A.F.L.-C.I.O.

AUTHORIZATION CARD

I, of my own free will, hereby authorize the INTERNATIONAL LADIES' GARMENT WORKERS' UNION, its affiliates and its representatives, to act exclusively as my agent and representative for the purpose of collective bargaining.

Print Name ELVIRA COMANO

Address 116 JOHN NO. MASSAPEQUA L.I. (Street and Number)

City N.Y. State N Y

Employed by DEE KNITS

Employer's Address 1650 NEW HIGH WAY FARMINGDALE

Signature Elvira Comano Date 9/7/73

Form AD 78D-A

GENERAL COUNSEL'S EXHIBIT NO. 13

INTERNATIONAL LADIES' GARMENT WORKERS' UNION

AFFILIATED WITH THE A.F.L.-C.I.O.

AUTHORIZATION CARD

I, of my own free will, hereby authorize the INTERNATIONAL LADIES' GARMENT WORKERS' UNION, its affiliates and its representatives, to act exclusively as my agent and representative for the purpose of collective bargaining.

Print Name Ella Santiago

Address 36 Somerset St
(Street and Number)

City Brentwood State N.Y.

Employed by D. Knitting mills

Employer's Address 1650 new Highways

Signature Ella Santiago Date Aug 28-73

Form AD 78D-A

GENERAL COUNSEL'S EXHIBIT NO. 14

INTERNATIONAL LADIES' GARMENT WORKERS' UNION

AFFILIATED WITH THE A.F.L.-C.I.O.

AUTHORIZATION CARD

I, of my own free will, hereby authorize the INTERNATIONAL LADIES' GARMENT WORKERS' UNION, its affiliates and its representatives, to act exclusively as my agent and representative for the purpose of collective bargaining.

Print Name PROVIDENCE NOLAN

Address 150- COVI ST Mattapoisett
(Street and Number)

City N. Y. State N. Y

Employed by D. & L KNITS

Employer's Address 1650 NEW HIGHWAY

Signature Providence Nolan Date 9-11-73.

Form AD 78D-A

GENERAL COUNSEL'S EXHIBIT NO. 15

INTERNATIONAL LADIES' GARMENT WORKERS' UNION

AFFILIATED WITH THE A.F.L.-C.I.O.

AUTHORIZATION CARD

I, of my own free will, hereby authorize the INTERNATIONAL LADIES' GARMENT WORKERS' UNION, its affiliates and its representatives, to act exclusively as my agent and representative for the purpose of collective bargaining.

Print Name PAULA LIMERY

Address 33 MAPLE RD.
(Street and Number)

City N. Amityville State N. Y.

Employed by [redacted] D&L Knitting

Employer's Address 1650 New Highway Farmingdale

Signature Paula Limery Date 8-27-73

Form AD 78D-A

GENERAL COUNSEL'S EXHIBIT NO. 16

INTERN ONAL LADIES' GARMENT WORKERS' UNION

AFFILIATED WITH THE A.F.L.-C.I.O.

AUTHORIZATION CARD

I, of my own free will, hereby authorize the INTERNATIONAL LADIES' GARMENT WORKERS' UNION, its affiliates and its representatives, to act exclusively as my agent and representative for the purpose of collective bargaining.

Print Name CHILEMENA LARITZA

Address 1333 4 L (Street and Number)

City W Babylon NY State N.Y. 11704

Employed by Deer Knitting Mills

Employer's Address 1650 Sunrise Highway

Signature Chilemena Laritza Date Aug 7th 1973

Form AD 78D-A

GENERAL COUNSEL'S EXHIBIT NO. 17

INTERN ONAL LADIES' GARMENT WORKERS' UNION

AFFILIATED WITH THE A.F.L.-C.I.O.

AUTHORIZATION CARD

I, of my own free will, hereby authorize the INTERNATIONAL LADIES' GARMENT WORKERS' UNION, its affiliates and its representatives, to act exclusively as my agent and representative for the purpose of collective bargaining.

Print Name ANTOINETTE JACKSON

Address 2 MARTIN ST (Street and Number)

City MASSAPEQUA State NEW YORK

Employed by DEER KNITS

Employer's Address 1650 SUNRISE HIGHWAY

Signature Antoinette Jackson Date Sept 4, 1973

Form AD 78D-A

GENERAL COUNSEL'S EXHIBIT NO. 20

INTERNATIONAL LADIES' G MENT WORKERS' NION

AFFILIATED WITH E A.F.L.-C.I.O.

AUTHORIZATION CARD

I, of my own free will, hereby authorize the INTERNATIONAL LADIES' GARMENT WORKERS' UNION, its affiliates and its representatives, to act exclusively as my agent and representative for the purpose of collective bargaining.

Print Name [illegible]

Address [illegible] (Street and Number)

City [illegible] State [illegible]

Employed by DEER KNITS

Employer's Address 1650 NEW HIGHWAY FARM.

Signature [illegible] Date 9/18/73

Form AD 78D-A

GENERAL COUNSEL'S EXHIBIT NO. 21

INTERNATIONAL LADIES' GARMENT WORKERS' UNION
AFFILIATED WITH THE A.F.L.-C.I.O.

AUTHORIZATION CARD

I, of my own free will, hereby authorize the INTERNATIONAL LADIES' GARMENT WORKERS' UNION, its affiliates and its representatives, to act exclusively as my agent and representative for the purpose of collective bargaining.

Print Name [illegible]
Address [illegible] (Street and Number)
City [illegible] State [illegible]
Employed by Dee Knits
Employer's Address 1650 [illegible] Way Farm
Signature [illegible] Date 9-19-73

Form AD 78D-A

GENERAL COUNSEL'S EXHIBIT NO. 22

INTERNATIONAL LADIES' GARMENT WORKERS' UNION
AFFILIATED WITH THE A.F.L.-C.I.O.

AUTHORIZATION CARD

I, of my own free will, hereby authorize the INTERNATIONAL LADIES' GARMENT WORKERS' UNION, its affiliates and its representatives, to act exclusively as my agent and representative for the purpose of collective bargaining.

Print Name CECILIA BARBOUR
Address 525 SECATOGUE AVE.
City FARMINGDALE (Street and Number) State N.Y. 11735
Employed by DEE KNITS
Employer's Address 1650 NEW HWY FARMINGDALE
Signature Cecilia Barbour Date 9/18/73

Form AD 78D-A

GENERAL COUNSEL'S EXHIBIT NO. 23

INTERNATIONAL LADIES' GARMENT WORKERS' UNION
AFFILIATED WITH THE A.F.L.-C.I.O.

AUTHORIZATION CARD

I, of my own free will, hereby authorize the INTERNATIONAL LADIES' GARMENT WORKERS' UNION, its affiliates and its representatives, to act exclusively as my agent and representative for the purpose of collective bargaining.

Print Name DORIS M. TREMONT
Address 17 SHERIDAN RD.
City BABYLON (Street and Number) State N.Y.
Employed by DEE KNITS
Employer's Address 1650 NEW HIGHWAY, FARMINGDALE
Signature Doris M. Tremont Date 8.30.73

Form AD 78D-A

GENERAL COUNSEL'S EXHIBIT NO. 24

'ERNATIONAL LADIES' MENT WORKERS' ION

AFFILIATED WITH THE A.F.L.-C.I.O.

AUTHORIZATION CARD

I, of my own free will, hereby authorize the INTERNATIONAL LADIES' GARMENT WORKERS' UNION, its affiliates and its representatives, to act exclusively as my agent and representative for the purpose of collective bargaining.

Print Name Donna Bauza

Address 956 North Greene Avenue
(Street and Number)

City Lindenhurst State New York

Employed by Dee Knitting Mills Inc.

Employer's Address 1650 New Highway, Farmingdale

Signature Donna Bauza Date September 13, 1973

Form AD 78D-A

GENERAL COUNSEL'S EXHIBIT NO. 26

INTE 'ATIONAL LADIES' RMENT WORKERS' UNI

AFFILIATED WITH THE A.F.L.-C.I.O.

AUTHORIZATION CARD

I, of my own free will, hereby authorize the INTERNATIONAL LADIES' GARMENT WORKERS' UNION, its affiliates and its representatives, to act exclusively as my agent and representative for the purpose of collective bargaining.

Print Name Rosetta Lyons

Address 1210 Minerva Ave.
(Street and Number)

City West Islip, L.I. State N.Y. 11795

Employed by Dee Knits

Employer's Address 1650 New Highway, Farmingdale N.Y.

Signature Rosetta Lyons Date 9/6/73

Form AD 78D-A

GENERAL COUNSEL'S EXHIBIT NO. 30

INTERNATIONAL LADIE ARMENT WORKERS' UNION

AFFILIATED WITH THE A.F.L.-C.I.O.

AUTHORIZATION CARD

I, of my own free will, hereby authorize the INTERNATIONAL LADIES' GARMENT WORKERS' UNION, its affiliates and its representatives, to act exclusively as my agent and representative for the purpose of collective bargaining.

Print Name BARBARA LAUFMAN

Address 246 WEST 11 ST
(Street and Number)

City DEER PARK State N.Y. 11729

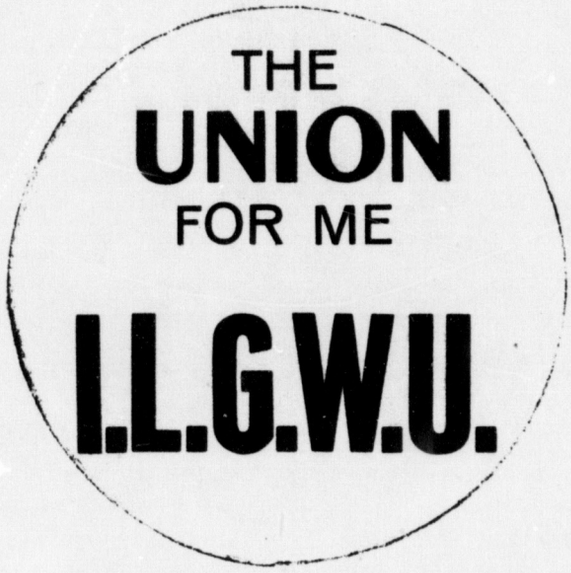
Employed by DEE KNITTING MILLS

Employer's Address 1650 NEW HIGHWAY FARMINGDALE NY

Signature Barbara Laufman Date 7-21-73

Form AD 78D-A

GENERAL COUNSEL'S EXHIBIT NO. 3



GENERAL COUNSEL'S EXHIBIT NO. 25

INT ATIONAL LADIES' MENT WORKERS' UN
AFFILIATED WITH THE A.F.L.-C.I.O.

AUTHORIZATION CARD

I, of my own free will, hereby authorize the INTERNATIONAL LADIES' GARMENT WORKERS' UNION, its affiliates and its representatives, to act exclusively as my agent and representative for the purpose of collective bargaining.

Print Name Marie Foth
Address 1032 N Ontario (Street and Number)
City Lindenhurst State New York
Employed by Dee Knits
Employer's Address 1650 New Highway, Farmingdale
Signature Marie Foth Date 9/13/73

Form AD 78D-A

GENERAL COUNSEL'S EXHIBIT NO. 27

INT ATIONAL LADIES' MENT WORKERS' UN
AFFILIATED WITH THE A.F.L.-C.I.O.

AUTHORIZATION CARD

I, of my own free will, hereby authorize the INTERNATIONAL LADIES' GARMENT WORKERS' UNION, its affiliates and its representatives, to act exclusively as my agent and representative for the purpose of collective bargaining.

Print Name MARTHA JEAN
Address 81 ASHFORD DR. (Street and Number)
City SYOSSET State N.Y.
Employed by DEE KNITS
Employer's Address 1650 NEW HIGHWAY FARM.
Signature Martha Jean Date 9-18-73

Form AD 78D-A 490

GENERAL COUNSEL'S EXHIBIT NO. 28

MESSAGE CONFIRMATION COPY

September 27, 1973

LOCAL 107 ILGWU MR
2 SHORE LANE
BAY SHORE NY 11706

5166665200 TDMT BAY SHORE NY 42 09-20 0941A EST

PMS DEE KNITTING MILLS INC. DLR

1650 NEW HWY

FARMINGDALE NY 11735

TO EMPLOYERS CONFIRMING OUR VISIT TODAY REPEAT DEMAND FOR RECOGNITION AS COLLECTIVE BARGAINING AGENT FOR DEE KNITTING MILLS INC PRODUCTION AND MAINTENANCE WORKERS. WE ARE PREPARED TO PROVE OUR MAJORITY STATUS. THIS IS A CONTINUOUS DEMAND

LOCAL 107 ILGWU 2 SHORE LANE BAY SHORE NY

GENERAL COUNSEL'S EXHIBIT NO. 29

September 21st, 1973

Dee Knitting Mills Inc.
1650 New Highway
Farmingdale, New York 11735

Gentlemen:

As you know and as I told you in our meeting this morning Local 107 International Ladies' Garment Workers' Union is picketing at 1650 New Highway, Farmingdale.

This picketing is in protest against the numerous unfair labor practices committed by Dee Knitting Mills Inc., its officers, agents and representatives. This afternoon after our meeting your agent intentionally and maliciously drove an automobile into the picket line and seriously injured Rosetta Lyons, one of the pickets. In addition to other legal action, unfair labor charges are being filed against you.

We wish to make it perfectly clear that the picketing is directed solely in protest against your unfair labor practices. This picketing is not for recognization or organization of Dee Knitting Mills Inc.; and the Union's staff and pickets have been so instructed. We further wish to assure you that picketing at Dee Knitting Mills will be discontinued just as soon as the unfair labor practices and other legal wrongs have been effectively remedied.

Should anything arise in the course of the picketing contrary to the purpose and instructions as set forth above, or should any other misunderstanding occur, we ask you to bring it to our attention at once, so that proper corrective measures may be undertaken immediately.

Very truly yours,

Ed Banyai
Manager
Local 107 International
Ladies' Garment Workers'
Union

GENERAL COUNSEL'S EXHIBIT NO. 31

INTERNATIONAL LADIES' GARMENT WORKERS' UNION
AFFILIATED WITH THE A.F.L.-C.I.O.

AUTHORIZATION CARD

I, of my own free will, hereby authorize the INTERNATIONAL LADIES' GARMENT WORKERS' UNION, its affiliates and its representatives, to act exclusively as my agent and representative for the purpose of collective bargaining.

Print Name LAURA PIRAINO

Address 450 LENOX RD
(Street and Number)

City HUNTINGTON STATION State NY

Employed by DEE KNITS

Employer's Address 1650 NEW HIGHWAY FARMINGDALE

Signature Loretta Piraino Date 8-31-73

Form AD 78D-A

GENERAL COUNSEL'S EXHIBIT NO. 32

State of New York)
County of Suffolk) ss.

Now comes Ann Marie Cooper, being duly sworn, deposes and says as follows:

I have worked for Dee Knitting Mills for about five years first in Brooklyn and now in Farmingdale. I am a packer.

My address is 11-42 118th St, South Ozone Park, New York. My telephone number is 212-845-9685.

I remember one day in June union men passed out literature in the parking lot when I was leaving work. I do not know which union. I did not take any literature. I start work at 7 a.m. and leave at 4:30 p.m. I am paid $3.25 per hour. I believe the men passed out literature in the morning that day too but I am not sure. Around this time, all the employees were called to one area of the shop. I recall Vincent and Charles DiBartolo said something but I am not sure what. I was not interested. Bob Lipsenthal was present but did not say anything because he is not involved with Dee Knitting.

I do not recall literature being distributed again. I do recall everyone being called to gather again

A.M.C.

And being told by Vincent and Charles D Bartels that there would be picketing the next day but not to worry about it. There was no picketing the next day.

My work area is separate from the floor and finishing. It is not enclosed but I face the front of the building. I saw some people walk through the shop on Thursday in September. I am not sure of the exact date. I did not know what they were doing. They went to the office. I was busy working. Sometime after 9 a.m. I turned around and noticed that many of the women were gone. I did not hear them leave. I heard no one shout "get out." My work area is in the shop right near the door going in to the office. If someone had shouted near the ~~office door~~ door to the office from the factory, I would have heard them.

A M C

No one ever asked me to join a union. ~~I do not know anything about the union who came in that day. I do~~ I did not know that the people going into the office were from a union.

A M C

I have read the foregoing statement consisting of two pages and I swear that it is true and correct to the best of my knowledge and belief.

A. M. C

Ann Marie Cooper

Sworn to and subscribed before me this 7th day of November, 1973. Elizabeth K Johnson Board Attorney

1 **EXCERPTS FROM TRANSCRIPT OF PROCEEDINGS**

BEFORE THE NATIONAL LABOR RELATIONS BOARD
Twenty-Ninth Region

In the Matter of:	
DEE KNITTING MILLS, INC., DIPPY KNITS, INC. and THREE D KNITTING MILLS, INC.	
and	**Case Nos.**
INTERNATIONAL LADIES GARMENT WORKERS UNION, AFL-CIO,	**29-CA-3563** **29-CA-3627** **29-CA-3637**
and	
LOCAL 560, INTERNATIONAL UNION OF MAINTENANCE AND PRODUCTION WORKERS.	

16 Court Street
Brooklyn, New York
Monday, January 21, 1974
12:00 o'clock Noon.

* * * * *

4 **PROCEEDINGS**

JUDGE WELLES: The hearing will be in order.

This is a Formal Hearing before the National Labor Relations Board in the matter of Dee Knitting Mills, Inc., Dippy Knits, Inc., and Three D Knitting Mills, Inc., Case Nos. 29-CA-3563, 29-CA-3627 and 29-CA-3637.

My name is Melvin J. Welles and I'm conducting the hearing in this case.

I understand that you gentlemen have had an opportunity to discuss settlement and at least at the moment there would be no point in further discussions; is that correct?

MR. BOGUT: Yes, your Honor.

I have agreet on some things that can be stipulated to on the record in an effort to not to have to produce proof in connection with that.

JUDGE WELLES: Will Counsel please state their apperances for the record?

MR. APPELL: For the General Counsel, Stephen E. Appell, Region 29, N.L.R.B., 16 Court Street, Brooklyn, New York.

MR. BOGUT: For Respondent Dee Knitting Mills, Three D. and Dippy Knits, Saltzman and Bogut by John F. Bogut, 550 West Old Country Hoad, Hicksville, New York.

MR. KUSHNER: For the Charging Party, ILGWU, Lester Kushner, 1710 Broadway, New York, New York.

MR. APPELL: Your Honor, I believe there is a gentleman making an appearance for Local 550.

He is present in the hearing room, Mr. DeBenedictis.

JUDGE WELLES: Mr. DeBenedictis, are you making an appearance?

MR. DE BENEDICTIS: Yes, sir.

JUDGE WELLES: State your appearance for the record.

MR. DE BENEDICTIS: I am appearing for Local 550.

JUDGE WELLES: State your name and address, please.

MR. DE BENEDICTIS: Sam DeBenedictis. Address, home address, 49 Winter Lane, Hicksville, Long Island.

* * * * *

MR. APPELL: We allege that they were offered reinstatement two days after the discharge, but we are seeking to show that the alleged discriminatees were discharged basically in a single swoop wherein Respondents' agents ordered that all employees wearing Union buttons should leave the plant and that they were fired.

That is the nature of the alleged discrimination.

JUDGE WELLES: On those circumstances I will depart from the normal practice and sequester all the witnesses as requested, and I will trust you people to police that.

* * * * *

8 MR. APPELL: Your Honor, if I state correctly, Counsel during the off the record discussion worked out some stipulations whereby Respondents would stipulate to the contents of Paragraph 4 of the Complaint.

MR. BOGUT: So stipulated.

MR. APPELL: Paragraph 5 of the Complaint.

MR. BOGUT: So stipulated.

MR. APPELL: Paragraph 6 of the Complaint.

MR. BOGUT: So stipulated.

MR. APPELL: Paragraph 7 of the Complaint.

MR. BOGUT: So stipulated.

MR. APPELL: And Paragraph 8 of the Complaint to the extent that Salvatore Tramuta is and has been at all times material herein a supervisor of Respondents within the meaning of Section 2.11 of the Act.

9 MR. BOGUT: So stipulated.

MR. APPELL: Additionally, your Honor, Counsel during the off the record discussion, the pre-record discussions, consider the matter of appropriate bargaining unit in this matter and if I understand it correctly, as far as the unit definition is concerned, which is contained in Paragraph 15 of the Complaint, the only difference as to definition is that Respondents would include knitters in the appropriate barganing unit, whereas General Counsel would exclude them.

MR. BOGUT: Yes.

MR. APPELL: Moreover, your Honor, we discussed the possibility of stipulating as to who was included in the appropriate bargaining unit.

We were able to agree on 30 names of people that would be included.

Perhaps your Honor would like me to read the names into the record and also to point out the people as to whom the parties currently differ about.

JUDGE WELLES: You just have them in handwritten form?

MR. APPELL: That is correct.

JUDGE WELLES: Go ahead, read them.

MR. APPELL: The ones that we agree on, and I will try to spell most of them as accurately as possible are as follows:

10

Sal D'Amico, Chris Tramuta, Giuppina Fiore, Antonietta Leo.

JUDGE WELLES: Hold it just a moment.

MR. APPELL: Ann Marie Cooper, Virginia Sustrean, Draga Gibou, Paula Limera, Gloria Maurice, Freda Tarsky, Mary Lou Pastore.

Antoinnette Jackson, Betty Benevenuto, Elvira Romano, Mary Dorio, Rosetta Lyons, Doris Tramont, Matteo Montepresto, Eufronzina Turkhone, Fanny Spizia, Barbara Laufman, Philomena Laritza, Paula Reina, Providence Nolan, Juliana Sfora, Martha Jean, Ethel Fitzpatrick, Ella Santiago, Paul Stewart, Marvin Sorensen.

This list, if I count correctly, your Honor, comprises 30 people as to whom the parties are in agreement.

The Company would include, the Respondents would include Charles Reina.

MR. BOGUT: Your Honor, I would like to interrupt for a monent since the time that we stipulated to this list it has come to my attention that one of the names on the list is in fact a Union Officer.

I may want to consider that name differently from the rest.

To wit, Barbara Laufman.

11

JUDGE WELLES: It is hard for me to see offhand how it could make any difference in terms of whether or not she is in the unit.

If she is an officer, but if you want to withdraw your stipulation –

MR. BOGUT: I would like to withdraw it as to that name.

JUDGE WELLES: All right.

MR. APPELL: The Respondents would include in the unit Charles Reina who the General Counsel alleges is a supervisor and Marie Reina whom, according to the General Counsel's current information, had quit before a demand for recognition was made, Frank Valenti who, according to the General Counsel's current belief, was not a regular employee within the unit and four employees who are knitters and their names are Michael Alcalde, Omar Suarez, Philip Lombardo and Louis Milazzo.

The General Counsel would include as members of the appropriate Bargaining unit the following:

Angela Rosa, Cecelia Barbour, Gilda Lombardo, Adeline Bonanza, all of whom, if I understand Respondents' position, were first hired in the week in question and hence would not be considered by Respondents to be members of the bargaining unit.

MR. BOGUT: I think there is a fifth name on that, Loretta —

MR. APPELL: Additionall, your Honor, we would include Donna Baiera and Marie Foth whom, General Counsel on current information, appear to be regular part time employees at the time of the demand and hence included in the bargaining unit and whom the Respondents would exclude.

General Counsel, on current information, would also include Laura or Loreta, both names have been used, Piraino, who, according to General Counsel's current information, was out sick in the week in question but, according to Respondents' contention, was no longer employed as of the time of the demand.

Barbara Laufman has been mentioned as one whom the General Counsel would include and the Respondents would exclude.

I believe that would cover all the names who have been proposed for inclusion by all the parties of each of them.

JUDGE WELLES: You agree, Mr. Bogut?

MR. BOGUT: So stipulated.

JUDGE WELLES: If I hear no comment from the representative of either Union I will assume they agree with what has been said and I won't ask you specifically for your position unless you wish to speak up.

13 MR. APPELL: I also propose a stipulation that respecting the date when either the employees were discharged as alleged by General Counsel or otherwise walked off the job as alleged by Respondents, that that date in question was September 20th, 1973.

MR. BOGUT: So stipulated.

MR. APPELL: May we go off the record?

JUDGE WELLES: Off the record.

(Discussion off the record.)

MR. APPELL: Does your Honor wish any opening remarks from General Counsel?

JUDGE WELLES: It is up to you. I have read the Complaint and I think I understand what it is all about.

* * * * *

15 JUDGE WELLES: Before you begin, the only part of the Complaint that does confuse me a little bit, although you referred to it before, is the part about the offer of reinstatement on the 22nd.

Will you explain that, please?

MR. APPELL: It is my understanding, your Honor, that Respondents sent a letter to the various alleged discriminatees asking them to come back to work, which letter was received or should have been received by employees on September 22nd, 1973.

We regard that as a valid offer of reinstatement.

However, the people continued to engage in picketing and striking in protect against the unfair labor practices of the Respondents, according to General Counsel's theory.

JUDGE WELLES: I understand it.

So it was a valid offer of reinstatement in terms of 8(3) and in theory there would be at least no back pay until they offer to come back to work?

MR. APPELL: Yes.

* * * *

GLORIA MAURICE

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

JUDGE WELLES: Give your name and address to the Reporter.

THE WITNESS: Gloria Maurice, 1190 Dickson Avenue, Copague, Long Island.

DIRECT EXAMINATION

Q. (By Mr. Appell) Miss Maurice, did you ever work for Dee Knitting Mills? A. Yes, I did.

Q. When did you begin work? A. Late in April.

Q. Of which year? A. 1973.

* * * * *

Q. Did there come a time when you attended a Union meeting? A. Yes.

Q. Was there one or more than one? A. There was more than one.

Q. Let us take the first one.

Do you remember when that was, about? A. The first one was in August.

Q. Where was that held? A. That was in the Bon Apetite Restaurant in Lindenhurst, Long Island.

Q. Who was there? A. Mary Ruggiero, a Delegate from Local 107 and Barbara Laufman, same Local.

* * * * *

Q. After the meeting in the Bon Apetite Restaurant did there come a time when you attended another Union meeting? A. Yes.

Q. Do you remember when that was? A. That was in August.

Q. Where was that held? A. At Thompson's in West Islip?

Q. What is Thompson's? A. It is a restaurant.

Q. How many people were present there, do you recall? A. Approximately, I don't know definitely, about 18.

Q. Did anyone speak at that meeting? A. Yes.

Q. Who spoke at that meeting? A. Ed Banyai.

Q. Who is Ed Banyai? A. He is the business manager of Local 107.

25 Q. Do you remember what he said at that meeting? A. No, I don't recall.

Q. Did there come a time after that when there was another Union meeting? A. Yes.

Q. Do you remember the date of that meeting? A. September 19th.

Q. Where was that meeting held? A. At Thompson's.

Q. Who was present at that meeting, the best you recall? A. Barbara Laufman, Mary Ruggiero, Ed Banyai.

Q. Were any employees -- A. Yes.

Q. (Continuing) -- of Dee present? A. Yes.

Q. Do you remember about how many? A. About 24.

Q. What happened at that meeting as best you recall? Did anyone speak at that meeting? A. Yes, Mr. Banyai spoke.

Q. Do you remember what he said at that meeting? A. And he told us, you know, about the cards and all these girls had signed up for the Union and told us that we were -- would go in Thursday morning.

26 A committee of four was selected from this group.

Q. Who was the committee that was selected? A. Myself, Betty Benevenuto, Ethel Fitzpatrick and Freda Tarsky.

Q. Was anything given out at that meeting? A. Yes.

Q. What? A. Union buttons.

MR. APPELL: I ask that the Reporter mark this if he can as General

Counsel's Exhibit No. 3.

(The button above-referred to was marked General Counsel's Exhibit No. 3 for identification.)

Q. (By Mr. Appell) Miss Maurice, I show you General Counsel's Exhibit No. 3. Have you ever seen that before? A. Yes, I have.

Q. Where did you first see such a button? A. On September 19, 1973.

Q. Is this the button you refer to as what was given out? A. Yes, it is.

* * * * *

27 Q. (By Mr. Appell) The following day, September 20th, did you report to work that morning? A. Yes, I did.

Q. What time did you get there? A. About five to 8:00.

Q. What happened that morning? A. I met Ed Banyai, Mary Ruggiero and the committee by the gate. We put our buttons on.

28 Q. Where did you meet? A. In the parking lot in the rear of Dee Knitting.

Q. What happened? A. We put our buttons on.

We walked in and the committee punched their cards.

Q. Then what happened? A. We walked through the factory to the office door. Mr. Banyai knocked on the office door and we were let in.

Q. Who was present when you went in? A. Charles DeBartolo, Vincent DeBartolo, Bob Lipsenthal and Sal Tramuta.

Q. What did the Union representatives say and what did the Company officials say and indicate who said what? A. Mr. Banyai took out his card, presented it to Charles DeBartolo, said he would like to speak to him.

Charles DeBartolo turned around and says "I know who you are, you were here before."

Mr. Banyai said, "No, you do not know who I am." And he kept back and

forth for a few minutes.

He said "I just want to talk to you."

So Charles turned around and said "I know who you are, you are from the Union.

29 "You have been trying to get in here."

So Mr. Banyai said no, he said.

"You don't know me."

He kept insisting that he knew him and he didn't know each other.

Anyway, Charles DeBartolo says, "Well, there's nothing to talk about."

He says, "As of now this shop is closed. There is the front door, you and her get out," referring to Mary Ruggiero.

Q. Then what happened? A. Then Charles DeBartolo threatened to call the police.

Bob Lipsenthal turned around and shouted at the committee to get out and he told Freda Tarsky that she spoke with a forked tongue, to get out.

We were all fired.

Q. What happened then? A. We had left our bags and stuff at the machines and we had asked permission to go into the factory to pick up our bags.

We went back into the factory and Charles and Vincent and Bob follow us out into the factory.

In the meantime the girls that were waiting out there, I guess they had just started to work, I'm not too sure of the time, asked what happened and we just told them we were fired.

30 With that they all took their buttons out and they put them on, and the three of them, Bob, Charley and Vincent are following us out and they are shouting, "Everybody out, everybody with green buttons get out" so we got out.

Q. When you went out did anyone from the Company follow, anyone else come out besides employees? A. So much shouting going on I could only hear, you know – I know Bob was behind us.

Q. Did he say anything? A. And he demanded that we get off the property and get in the street, and there was another lady there, Mary Caligaris and she was just standing there with us and we were moving out into the street and he turned around and said "Who are you, the madam?"

So, you know, words flew very fast and very fierce.

Q. Who was Mary Caligaris, do you know? A. She – no, I don't really. I really don't know who she is.

I mean, she works on the picket line with us but her position I don't know exactly what.

Q. Did Mr. Lipsenthal say anything else at that time, if you recall? A. Not that I recall, no.

31 Q. Do you recall him saying anything about people that he knew? A. Oh yes, the District Attorney, he was going to get in touch with the District Attorney, he knows how to deal with Unions, and –

Q. Did you engage in picketing after that? A. Well, not immediately. We went to the office.

Q. Who sent to the office, which office? A. I'm sorry, Local 107 office, the committee went up.

Q. Who went there? A. Ed and Mary and the four of us on the committee.

Q. What was discussed there, do you remember? A. Well, actually there wasn't, you know, there wasn't anything really discussed.

We were told that the Company was going to come down, somebody from the Company would be down, they wanted to discuss things with Mr. Banyai, so we waited.

Q. Did you ever take part in any picketing for the Union? A. Afterwards, yes.

* * * * *

35 Q. Other than the time you went into the shop, when you went in with Mr. Banyai to the office and you were told to get out, did you ever take part in any other discussion between the Company and the Union? A. Yes, we did.

Q. Do you remember when that was? A. That was September 20th.

Q. What happened that time? A. They were – we were notified they were going to come down to discuss, I don't know what.

So we waited and they came down and went into Mr. Banyai's office.

Naturally, the committee went in with him and the Company came in, they sat down and they asked Mr. Banyai --

Q. Who is they? A. I'm sorry, the Company, members of the Company.

Q. Who were they? A. Charles, Vincent, Bob and their secretary Ellen was with them.

Q. What was said at the meeting and who said it? A. They said they wanted to speak with Mr. Banyai alone, so Mr. Banyai said "Whatever you have to say has to be said in front of the committee," he said "I don't discuss anything without the committee here."

36 Q. Then what happened? A. So we sat in on the meeting, and --

Q. Do you remember what was said? A. A lot of words were flying.

I know one said, Charles said that he was just another worker and he worked side by side with the workers, and he doesn't make that kind of money, and some times he goes home with just $10 in his pocketbook and you can't put food in the dish and he ain't got money to put food in the dish, but they couldn't come to any agreement.

It was a lot of bantoring back and forth, a lot of tempers.

Q. Did Mr. Banyai say anything at that meeting, if you recall? A. Well, he did say – they did want to see if they could come to an agreement but he did tell the Company, Bob, Charles, Vincent that they would have to settle one matter first, the unfair labor action before they could make, you know, discuss anything else with them.

* * * * *

44 Q. Did there come a time when you reported for work on Thursday morning, the 21st or the 20th, rather, of September, 1973? A. Yes.

45 Q. Did you punch your time clock? A. Yes, I did.

Q. Did the other girls on the committee punch their time clocks? A. Yes, they did.

Q. Did there come a time when you met Mr. Banyai? A. Yes, we met him Thursday morning in the parking lot.

Q. What parking lot would that be? A. The rear part of the parking lot.

Q. Did you meet him before or after you punched your time clock? A. Before.

Q. Did he accompany you through the door? A. Yes, he did.

Q. As the girls were filing in to punch their timecards? A. Yes.

Q. Did he say anything to you when he got inside the plant? A. Just told us to go right through, and that we would go into the office and that is what we did, knocked on the door.

46 Q. Did he accompany you through the plant? A. Pardon me, coming or going?

Q. Did Mr. Banyai? A. Through the plant going to the office.

Q. Before the four of you? A. Yes.

Q. Did you walk from the rear door where you normally come in to work right through the plant? A. Yes.

Q. Into the office door? A. Yes.

We knocked first.

Q. Well, we are still walking through. A. All right.

Q. We will get to the door later.

So the four of you walked through the plant.

Did Mr. Banyai say anything to you while you were walking through the plant? A. No.

Q. Did Mary Ruggiero say anything to you? A. No.

Q. Did there come a time when the committee, Mr. Banyai and Miss Ruggiero went into the office portion of the building? A. Yes.

47 Q. Can you tell us how that happened? A. We walked through the factory to the door of the office.

We knocked, Mr. Banyai knocked and the door was opened and we were let in.

Q. Someone let you in? A. Yes.

Q. Who let you in? A. I don't know.

The office had quite a few people. I noticed the door opened and somebody opened the door.

Q. Did Mr. Banyai open the door? A. No, no, he knocked.

That door was opened for him.

Q. Who opened it? A. I don't know, but that door swung open.

Q. There were only four people in that room, that is what you testified to earlier? A. Yes.

Q. There weren't a lot of people as I recall your testimony.

Someone opened the door.

Who was it? You don't remember? A. I don't remember who opened that door.

Q. Did there come a time when all four of you along with Mr. Banyai and Miss Ruggiero went into the office?

You walked through the door and got in? A. Yes.

48 Q. Who else was there? A. In the office at the time?

Q. Yes. A. There was Charles and Vincent and Bob and Sal Tramuta.

Q. That would be Charles and Vincent DeBartolo, Bob Lipsenthal and Sal Tramuta? A. Yes.

Q. Do you recall what was said?

What did Mr. Banyai say? A. He took a card out of his pocket and

turned to Charles DeBartolo and said he would like to speak with him.

Q. Then what happened?

Did Charles DeBartolo say anything to him? A. Yes, he said to him "I know who you are."

He looked at the card and he said "I know who you are."

So Mr. Banyai said "No, you don't know who I am."

Then Charles DeBartolo said "Yes, I know who you are," and Mr. Banyai said "No, you don't know who I am," and this went back and forth three or four times.

Q. Then what happened? A. So Mr. Banyai said "I just want to speak to you," so Charles said, Charles DeBartolo said "No," he says, "I know who you are."

49 He says, "Get out. As of now this shop is closed."

Q. Did he show Mr. Banyai the door? A. Yes, he did.

Q. Which door did he show him? A. The front door, the office door.

Q. Did Mr. Banyai say anything back? A. He said, "I want to speak to you."

What he did do was tell us to go to our machines to work.

Q. Who told you to go? A. Mr. Banyai.

* * * * *

54 Q. Now, there came a time when either you or the other three members of the committee the following day, which would have been September 21st, were at Mr. Banyai's office? A. Yes.

Q. Did the two DeBartolo brothers and Mr. Lipsenthal and their secretary Ellen, did they have occasion to go or come into the office that day? A. Yes.

Q. Were you there when they arrived? A. Yes.

Q. Were you there during the entire time that this meeting took place?

A. Yes, I was.

Q. Can you tell me what Mr. Banyai said to the DeBartolos and Mr. Lipsenthal? A. The DeBartolos wanted to speak to Mr. Banyai alone and Mr. Banyai said that the committee had to stay in the room because they didn't want the committee present.

The DeBartolos and Bob Lipsenthal didn't want the committee present in their discussion but Mr. Banyai didn't – he said whatever has to be said has to be said has to be said in front of the committee.

Q. So everybody was there for the whole thing? A. Everybody was there.

Q. Tell me what you heard? A. Well, they didn't want us to know their personal business, the Debartols and Mr. Lipsenthal.

56 They didn't like the idea of us being there.

Now, they wanted to discuss, see if they could get together.

Mr. Banyai said "You have to settle, if you want to discuss and settle this firing that has to be taken care of first.

"Then maybe we could get together."

Q. What did Mr. DeBartolo say? A. I don't remember exactly what he said.

Q. What did Mr. Lipsenthal say? A. Mr. Lipsenthal didn't say much.

Q. What did Mr. Vincent DeBartolo say? A. He didn't say much either.

Q. And you don't remember what Charles DeBartolo said? A. Only that he was like one of the workers and he works side by side with them and half the time he goes home with just $10 in his pocketbook, in his pocket, and –

Q. Did Mr. Banyai at that time ask the DeBartolo brothers in behalf of Dee Knitting to sign a contract with them? A. No.

Q. Did he ask them to negotiate with him? A. I don't understand what you mean.

57 Q. Did Mr. Banyai say "I want your company to negotiate with us for a

contract"? A. No, he just wanted to do things first.

Q. Did he say something about an unfair labor practice? A. Yes.

Q. Go ahead. A. Go ahead.

Q. What was this thing first? A. The case of firing us, being fired on the 20th. That is what he wanted to settle that un–

Q. Did he want Mr. DeBartolo to sign a paper there? A. No, he didn't.

Q. What did he say? A. He told us to get his attorney and "I will get my attorney, the Union attorney and you get your attorney and maybe something could be worked out, but –"

Q. So Mr. Banyai said that Mr. DeBartolo was to get a lawyer and he will get his and they will see if something could be worked out on the unfair labor practice; isn't that true? A. Yes.

Q. Isn't that what you heard? A. I'm telling you that I heard that he said settle it and he didn't say settle, he said before – they want to make – in other words, they wanted to come to an agreement but Mr. Banyai said "We have to settle this problem of the firings first before–"

58 Q. Who wanted to come to an agreement? A. The DeBartolos.

Q. What kind of an agreement? A. I don't know.

* * * * *

69 ETHEL FITZPATRICK

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

JUDGE WELLES: Give your name and address to the Reporter.

THE WITNESS: Ethel Fitzpatrick.

I live at 1026 North Broadway, North Massapequa, Long Island.

DIRECT EXAMINATION

Q. (By Mr. Appell) Miss Fitzpatrick, did you ever work for Dee Knitting Mills? A. Yes, I did.

Q. When did you begin working there? A. About the second week of

April.

Q. Which year is that? A. 1973.

Q. What job did you have at Dee Knitting Mills? A. I was a merrow operator on sweaters.

* * * * *

82 Q. Can you give us the date or approximate date of the last Union meeting with reference to that date, September 20th, how long before it was, if you remember? A. I think it was the night before.

83 Q. Where was this meeting held? A. At Thompson's.

Q. Who was present at that meeting? A. Mary Ruggiero, Ed Banyai and the girls, and Barbara Laufman.

Q. Who spoke at that meeting? A. Ed Banyai.

Q. What did Mr. Banyai say? A. He told us that we were ready for recognition and that he would need a committee and who would like to be on the committee, and I said I would be on it and Gloria Maurice, Freda and Betty to represent the girls in Dee Knitting Mills.

Q. Did Mr. Banyai say anything else or did other people say anything else that you can recall at this meeting? A. He said we will go to the shop tomorrow, we will go through the back door and we will ask for recognition, and we did.

Mr. Banyai knocked at the door.

Q. Before we get to that, do you recall anything else at the Union meeting the night before? A. No.

Q. Do you recall anything being distributed at that meeting, given out?

84 A. Yes, buttons, ILGWU buttons.

Q. I show you General Counsel's Exhibit 3 which is in evidence.

Would you identify that? A. Yes.

Q. What is that? A. That is ILGWU button, International Ladies Garment Workers Union.

Q. When did you first see a button like this? A. The night before we went to talk to our bosses.

Q. Was this distributed at the Union meeting? A. Right.

Q. The following day, September 20th, did you go to the shop? A. That is the day, yes.

Q. What time did you get to the shop, do you recall? A. Yes, 8:00 o'clock.

I punched my card.

Q. Were you wearing a Union button at that time? A. Yes, I was appointed on the committee so I was wearing one.

Q. Whom did you meet at the shop when you got there? A. Ed Banyai, Mary Ruggiero.

He walked in, Gloria Maurice, Betty and Freda.

Q. What happened after you people went into the shop?

85 What did you do? A. We walked to the door.

The door was closed and Ed Banyai knocked on the door.

Q. Then what happened? A. And Charley said "Who are you?" when Ed Banyai presented his card.

Q. Charley who? A. DeBartolo, so as he is looking at the card he says, "Oh, I know who you are, you guys never give up."

Ed Banyai says "I'm here to represent the girls, they want a Union."

Then he looked and said "What are they doing here?" meaning myself, the committee and he says, "They represent the girls in the shop."

Q. Then what happened? A. Well, he got very angry.

Q. Who is he? A. Charley, Vinnie, Bob, they said "Get out."

He says "You go with him, you're fired."

I said, "I can't go out that front door, I have to go through the back door. I left my bag inside. I thought I was going to work."

So Vinnie politely opened the door for me and I went in to get my bag but

I didn't go into the shop yet.

86 I went into the ladies' room first.

Then when I came out I heard everybody scattering around and I heard Charley said "Everybody is fired," and I looked at Charley and I said "Charley, you'd be better off if you had a Union in here," and he turned around and said to me "You don't even know how to run a machine," and I have 30 years experience on the machine!

Q. Did Charley say anything else that you heard? A. He said, "Everybody with green buttons out."

That is as far as I got.

I was going out the door at that time.

Q. Did you get out? A. Yes, I did. I went out.

Q. Did Charley say anything else that you remember? A. No.

Q. Do you recall anything about closing the shop? A. Yes, he says, "I will put a lock on the do before a Union will get in here."

Q. What did you do when you went out? A. Well, we all stood on the curb there.

Q. Then what happened? A. We were talking to Ed Banyai and Mary Ruggiero and they came out and told us to get off the peoperty, that we didn't belong there any more.

Funny thing was Charley DeBartolo said "Do you want your job back? You are hired."

87 We said "No, we are fired."

Q. When did he say that? A. He said it right when we went outside.

We said "No, we are not coming back, we are fired."

Q. What did you do that afternoon, if you recall, that day? A. I didn't do much as far as I can remember.

I think I did picketing the next day. I don't remember picketing that day.

Q. Did there come a time when you and the committee and the Union met

with any Company officials after that day? A. Yes.

Q. When was that, if you recall? A. Come to think of it that day we went back to the Union office, if I'm not mistaken, and that is where we were told that we were fired and that our bosses were unfair, they were practicing unfair labor practice by firing us.

* * * * *

89 Q. Thereafter did you picket on behalf of the Union? A. Yes.

Q. Do you remember what the sign said that you carried, if you recall?

A. Dippy and Dee Knitting Mills, unfair labor practice, picketing against unfair labor practice.

* * * * *

120 Q. Did Mr. Banyai refuse to negotiate unless the unfair labor practice and this alleged firing was taken care of first? A. I don't remember hearing him say anything like that.

* * * * *

121 Q. At that meeting that we were just talking about at Mr. Banyai's office, did you ever hear Mr. Lipsenthal or Mr. DeBartolo or any of them admit that they fired anybody?

Did they say "We fired these girls yesterday"? A. I don't know which meeting you are talking about now.

Q. The last meeting at Mr. Banyai's office when you were there with the other ladies of the committee. A. They said "We were fired," that I know.

Q. At that meeting?

At the meeting at Mr. Banyai's office? A. It was very silly what they said at the meeting, that we were fired but "We hired them again."

Q. Who said that? A. Well, it could have been Charley, it could have been Bob.

122 I really don't recall, but it was said "We fired them but we would like to hire them again" and we said we weren't going back because we were fired.

Q. And you refused to go back? A. That's right.

* * * * *

JUDGE WELLES: On the record.

When we were off the record Mr. DeBenedictis approached me and indicated that he wasn't sure why he was at this hearing, that his purpose in being here all day was to reinstate some cards in connection with some petition.

I indicated to him that this was not the place to do that and he should go upstairs to the main office of the Region, and he indicated he was withdrawing his appearance and I want the record to note that.

* * * * *

123 FANNY SPIZIA

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

JUDGE WELLES: Give your name and address to the Reporter.

THE WITNESS: Fanny Spizia, 27 Woolbridge Avenue in Bay Shore.

* * * * *

124 DIRECT EXAMINATION

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Q. Miss Spizia, did you ever work for Dee Knitting Mills? A. Yes, I did.

125 Q. Do you remember when you began to work there? A. I think it was the 13th of September, 1973.

Q. What was your job at Dee Knitting Mills? A. I was a merrow operator.

* * * * *

129 Q. (By Mr. Appell) Miss Spizia, I show you General Counsel's Exhibit 3. Did you ever see a button like that before? A. Yes, I did.

Q. Do you remember the first time you saw that? A. I saw that on the morning of the 20th.

Q. Who gave it to you? A. I don't remember exactly because I don't

know most of the girls.

Q. That morning did you go to work on the 20th? A. Yes, I did.

Q. What time did you get to work? A. I got to work about ten to 8:00.

Q. Ten to 8:00? A. To eight, that's right.

130 Q. What time did you get the button, do you remember that? A. Just a few minutes before 8:00 o'clock.

Q. Where did you get the button? A. At the shop.

Q. What happened when you went in to work that morning? A. Well, I went into the shop and I started getting my work ready and then, you know, about four girls came in, the committee came in and they told me that they were going to go to the office to talk to the bosses.

I sat in like next to near my machine.

About two minutes after they came out and that is it.

Q. Then what happened? A. Then I heard somebody, which was Charley and saying "All the ones that are wearing buttons, you are all fired."

Q. Is that Charley DeBartolo? A. DeBartolo.

Q. Were you wearing a button at that time? A. Yes, I was.

Q. When did you put the button on? A. Just a few minutes before 8:00 o'clock.

Q. Before the committee went in or after? A. After the committee went in.

131 Q. When the committee came out did anyone say anything to you? A. No, I was too – the only thing that I heard about that, we were fired and the girls started saying, you know, let's get out so we, you know – actually was pushing us away from the shop.

Q. Besides Charley did Vinnie or Bob, the other bosses, did they say anything at that time? A. I couldn't remember that.

Q. Did you go outside? A. Yes, we did.

Q. Did Bob or Charley talk to you outside? A. No.

Q. Did they say anything to anybody? A. Yes, I heard Bob say to Ed "We know what to do with people like you."

* * * * *

RECROSS-EXAMINATION

* * * * *

Q. Where did you find out about Dee Knitting?

MR. APPELL: I object, beyond the scope of redirect.

JUDGE WELLES: Not for that reason but I just don't see the relevance. Can you tell me what it is?

MR. BOGUT: I think it is relevant and I would like to get an answer to the question, only to indicate where she found out about this employment.

JUDGE WELLES: Go ahead.

A. I found out from the Union.

Q. 107? A. That's right.

* * * * *

ANGELA ROSA

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

JUDGE WELLES: Give the Reporter your name and home address.

THE WITNESS: Angela Rosa, 271 Curtin Avenue, West Islip.

DIRECT EXAMINATION

Q. (By Mr. Appell) Miss Rosa, did you ever work for Dee Knitting Mills?

A. Yes, I did.

Q. When did you start working for Dee Knitting Mills? A. Well, I believe it was right after Labor Day. I don't recall whether it was the 7th or 8th of September.

Q. Of which year? A. 1973.

Q. How did you come to be hired there? A. I was brought in by a

friend, a girl, Barbara, my girlfriend, Barbara.

* * * * *

152 Q. Do you recall any other discussion at that meeting? A. I can't recall.

Q. Do you recall any mention of buttons? A. Oh yes, we were given buttons plus these cards, right.

Q. Was anything said about the buttons? A. That we were to put these buttons on entering the shop for the next day, going into this Dippy's Knits.

Q. Did you go to work September 20th? A. Right.

Q. What time did you get there? A. 8:00 o'clock.

Q. Do you remember what happened that morning? A. Yes, we all walked in and we waited for the bell to ring, and in the meantime Ed Banyai, Mary Ruggiero and the committee that was formed from this particular shop had
153 knocked on the door, walked into the office after they had knocked and we were told when the bell rang to sit down, and we sat down to work.

So in the meantime the committee was inside, so as my back was towards the door and there was Freda, Philomena and myself, and I don't know the other girls' names.

All of a sudden I heard the door open and DeBartolo, the two DeBartolos boys, men, and Bob Lipsenthal lunged at Freda and they just started telling her she had a forked tongue, she spoke with a forked tongue and to get out of the shop.

He happened to see Philomena with this button on her and he says "You, anybody," the two of them started yelling, "Everybody with buttons out, out."

So Bob walked behind us and I heard him yelling "Okay, slam that door behind her" and that is it.

Q. Did you all walk out? A. We all had to leave.

He said everybody with buttons had to leave.

Q. Were you wearing a button? A. Yes, I certainly was.

Q. Do you remember when you put it on? A. I put it on as soon as the girls went in the office.

154 Q. Did you go outside the shop then? A. Yes, we were all told to get out.

Q. What happened then? A. We were outside on the grounds and after the garage door was slammed and Bob approached Banyaia and yelled at him to get off the grass and he said to him, "No, I don't have to leave the grass," he says.

"You do," he says, "or I will call the cops on you," so a few words passed between the two of them and then I left.

Q. After that time did you picket? A. Yes, then I picketed.

Q. Did you picket the next day? A. Right.

Q. Do you remember if you carried a sign? A. Yes.

Q. Do you remember what the sign said? A. Unfair labor, right.

Q. What else did it say? A. Unfair labor.

Q. Did it say anything else? A. Well, Ladies' International Garment Workers Union.

Q. On that next day, Friday, September 21st, while you people were picketing was there any kind of an incident that occurred? A. Yes.

155 Q. When was that? A. Oh, say about lunch time.

I had gone down to ask the girls for lunch. I had taken the sandwiches down to them and we had mixed up on one girl whose name was Rosetta.

In the meantime I says, "Okay, I will get back and get you a sandwich," and I was walking away, I heard a horn honking and as I turned around I heard blaring, and as I turned around I see a blue sedan striking her right into the stomach.

Q. Strike who? A. Rosetta, Rosetta Lyons.

Q. Who was Rosetta Lyons? A. She was one of the other girls on the picket line.

Q. What happened then? A. As I turned I heard screaming and then she

was down on the ground.

The guy who hit her just continued to go, parked his car, got out and went inside, so there was so much commotion there that everybody from inside of the shop came out.

Bob, all of them tried to – they were covering her and everything.

Q. Do you know who the driver was? A. I believe it was one of the DeBartolo brothers.

156 Q. Do you know who the driver was of that car? A. At the time I didn't know, but then I was told it was one of the DeBartolo brothers.

Q. Did you see the driver, did you see his face at the time? A. Well, naturally I had seen him.

When I was running down he got out of the car and parked it.

Q. It was one of the two brothers sitting here? A. None of them, no.

* * * * *

CROSS-EXAMINATION

Q. (By Mr. Bogut) Mrs. Rosa, prior to the time that you started working at the knitting mills had you worked at another place? A. Yes.

Q. Similar type of operation? A. No.

Q. Where did you work? A. In My Robins in West Islip.

Q. What kind of a concern was that? A. A dress house.

157 Q. What were your duties there? A. A machine operator.

Q. What did you sew, stitches? A. Yes.

Q. Did you belong to 107 then? A. Yes.

Q. When did you terminate your employment with that concern? A. Let's see, September the 5th.

Q. Then do you recall did you start working on a Monday at Dee Knitting Mills? A. I don't believe so. I believe it was in the middle of the week.

I don't recall.

Q. You mentioned going to a meeting the evening of the 19th of September?

A. Right.

Q. Was that meeting at Thompson's Restaurant? A. Right.

Q. Is that the evening that you signed the card? A. Yes.

Q. Was that the card that the Attorney for the Labor Board showed you a minute ago? A. Yes.

158 Q. That would be the same card as Exhibit No. 6? A. Right.

Q. You signed it at that meeting? A. No, I gave it in at that meeting.

Q. Who gave it to you? A. Barbara had given it to me.

Q. When did she give you that card? A. The 10th, on the 10th.

Q. The 10th of what? A. Of September.

Q. Where did she give you that card? A. In her car.

Q. Did she give you a ride to work? A. Right.

Q. Did she take you home from work? A. Right.

Q. And Barbara, by that you mean Mrs. Laufman? A. Yes.

Q. Mrs. Barbara Laufman? A. Yes.

Q. She is the one who told you about the job at Dee, wasn't she? A. Right.

* * * * *

163 Q. What is the next thing that you saw? A. The girls that were on the committee came back into the shop and sat down and started to work.

Q. All four of them sat down? A. Well, the girls that sat at my table and the other girls sat around, the other committee, were on the knitting – on the other machine, right.

Q. And they started their machines? A. They walked over.

They walked over to their machines.

Q. Then what is the next thing you saw or observed? A. Well, as I said before the three of them lunging at Freda, telling her – Bob said she had a forked tongue and then he says to her "Out, I want you out."

Q. Did they touch her in any way? A. No, but they all were very

angry and actually hovered over her.

164 Q. What did they do, get her into a corner? A. No, they hovered over here, they still hovered over here.

Q. Where, was she seated? A. Yes, she was seated.

Q. She came out of the office and sat down? A. Yes, they all sat down.

Q. Where did she sit? A. On my right.

Q. At the table? A. At my table.

Q. Was that her usual place where she worked? A. Yes.

Q. Now then, there came a time when everybody, a lot of the women left for one reason or another, walked out into the parking lot; isn't that true?

A. After this incident, yes.

* * * * *

181 16 Court Street
Brooklyn, New York
January 22, 1974

* * * * *

184 MARY PASTORE,

called as a witness, was duly sworn by the Judge and testified as follows:

JUDGE WELLES: Please be seated.

Give your name and address to the reporter.

THE WITNESS: Mary Lou Pastore, 1436 11th Street, West Babylon.

* * * * *

DIRECT EXAMINATION

Q. (By Mr. Appell) Miss Pastore, were you ever employed at Dee Knitting Mills? A. Yes.

Q. When did you begin there? A. The end of March.

Q. Of which year? A. Of 1973.

Q. What were your hours of work at Dee Knitting Mills? A. I worked from eight to four.

185 Q. What was your job? A. Finisher.

Q. What was you weekly – what was your hourly rate of pay? A. Two dollars an hour.

* * * * *

189 Q. (By Mr. Appell.) Mrs. Pastore, I show you General Counsel's Exhibit 8, and I ask you if that is your signature that appears on the bottom line? A. Yes, it is.

Q. The date on the card, is that – A. August 28th.

Q. Is that the date you signed the card? A. Yes.

Q. The rest of the handwriting on the card, whose is that? A. That is mine.

Q. Can you explain – tell us who gave you that card? A. Barbara gave it to Mary Dorio so I can sign it.

Q. Who actually gave it to you? A. Mary Dorio.

Q. Where were you when she gave it to you? A. Mary Dorio's car in back of the plant.

Q. Who is Mary Dorio? A. One of the people we come to work with. She works in the knitting machine, with the label.

Q. When Mary Dorio gave you the card, what did she say A. Would you like to join?

Q. What did you say? A. I said yes.

Q. Had anyone ever talked to you about the union before that? A. Something – not too long before that, about two weeks before that.

190 Q. Who spoke to you about it then? A. It was Freda and Barbara.

* * * * *

191 Q. (By Mr. Appell.) Miss Pastore, the date September 20, when people stopped working or were fired, were you present that morning in the shop?

MR. BOGUT: Objection, your Honor.

Objection to the form of the question

JUDGE WELLES: Stopped working or got fired.

I overrule the objection.

Q. (By Mr. Appell.) Did you go to work that morning? A. No, I wasn't there that morning.

Q. How come you were not there that morning? A. I was at the dentist.

Q. What time did you get there? A. I got there almost one o'clock.

Q. Did you see anyone at the shop when you got there? A. Barbara was out there waiting for me.

Q. What did she say to you at that time? A. She said everybody got fired.

Q. Yes? A. That was it. She says they were all on strike.

Q. Did you go into work? A. Did I go into work?

Q. Yes. A. I started to go, but I met Barbara on the way and she said everybody got fired, they are on strike.

Q. What did you do after that? A. Went down to the union hall.

Q. What happened at the union hall, do you remember? A. Not exactly. Just I went practically when everybody was almost over. Had coffee and cake and just explained to me, you know, what happened. That was it.

Q. After that, did you ever picket? A. Yes.

Q. When did you do that, do you remember? A. The day after.

* * * * *

195 Q. Now, when you arrived there on the 20th, was it about one o'clock in the afternoon? A. About that.

Q. I see. At any time on the 20th or thereafter, or for that matter, at any time during the time you worked at Dee, and when you no longer worked there, stopped working on the 20th of September, 1973, did you ever hear Mr. Vincent DiBartolo or Mr. Charles DiBartolo, tell you that you were fired? A. I wasn't there, no.

Q. I see. At any time prior to that, did they ever say you were fired?

A. No.

* * * * *

204 BETTY BENVENUTO

called as a witness, was duly sworn and testifies as follows:

JUDGE WELLES: Please be seated and give your name and address to the reporter.

THE WITNESS: My name is Betty Benvenuto.

I live at 84 East 4th Street, Deer Park.

205 DIRECT EXAMINATION

Q. (By Mr. Appell.) Mrs. Benvenuto, did you ever work at Dee Knitting Mills? A. Yes, I did.

Q. When did you start working there? A. About the second week in July.

Q. Which year was that? A. 1973.

Q. What job did you have at Dee Knitting Mills? A. I was hired as an operator.

Q. What kind of a machine did you operate? A. A label machine.

Q. What was your rate of pay? A. Two dollars an hour.

Q. What were your hours of work? A. I worked from eight o'clock till four thirty.

* * * * *

209 Q. Did there come a time when Barbara Laufman spoke to you? A. Yes.

Q. Do you remember when that was? A. I had a flat tire one day, and she drove me home, and she was speaking to me about it.

Q. About what? A. About joining the union.

Q. Do you remember when that was, about? A. I don't remember exactly.

* * * * *

212 Q. Now, after that, did you attend another union meeting? A. Yes.

Q. When was the next union meeting that you attended? A. It was at a restuurant.

Q. Do you remember the name of the restaurant? A. I am not sure.

Q. Where was it located? A. It was located in Brentwood.

Q. Brentwood? A. Yes.

Q. Who was at that meeting, as best you recall? A. Mr. Banyai, Mary Ruggiero, and Barbara Laufman.

Q. How many employees were present at that meeting? A. About, I would say about twenty.

Q. Who spoke at that meeting? A. Mary Ruggiero and Mr. Banyai.

Q. Do you remember what Mary Ruggiero said? A. We were talking about if we had a majority of people for the union.

Q. Did Mr. Banyai say anything at that meeting? A. Yes.

213 He was talking about that, also, and he was saying -- he was talking about benefits, and union wages.

Q. Did there come a time when there was another union meeting? A. Yes.

It was at the same restaurant.

Q. Do you remember the date of that? A. I am not sure.

Q. Do you remember how long it was before your last day of work at Dee? A. It was a little bit after Labor Day.

Not too long after.

Q. Who was present at that meeting? A. Mary Ruggiero, Barbara Laufman and Mr. Banyai.

Q. Mr. Banyai, did he talk at that meeting? A. Yes.

Q. What happened at that meeting? A. Well, we went over what was said at the other meeting, and we also picked committee members.

Q. Who was picked on that committee? A. Ethel Fitzpatrick, Freda

Tarsky, and Gloria Maurice and I.

Q. Were you picked to represent certain people? A. I was picked to represent a certain part of my shop.

214 Q. Which part of the shop? A. The floor.

Q. I show you General Counsel's Exhibit 3, which is in evidence.

Did you ever see a button like that before? A. Yes.

Q. Do you remember the first time you saw it? A. That was September 19th.

Q. Did someone give you this button? A. Yes.

Q. Who was that? A. Mary Ruggiero.

Q. Where did she give it to you? A. She gave it to us at the restaurant.

Q. Was that the same meeting that you just described with the committee, or a different meeting? A. Yes, the same meeting.

Q. Now, the following day, September 20th, did you go to the shop? A. Yes.

Q. What time did you get there? A. I got there about fifteen minutes to eight.

Q. What did you do when you got there? A. We were waiting for the other girls.

Everybody went into the shop. I went in at five minutes to eight, I punched

215 my card, and I walked in with Mary Ruggiero, and Ed Banyai, and the rest of the committee.

Q. What happened then? A. We walked around the Merrow machines, and then we went to the door and Ed Banyai knocked.

Q. Then what happened? A. Then from there they opened the door and we went in.

Q. Who was in the room when you went in? A. Let's see.

There was Vincent DiBartolo, Charles DiBartolo, and Bob Lipsenthal.

Q. Were you wearing any union buttons at that time? A. Yes, I was.

Q. Was there any talking then in the office, when you went in? A. Ed Banyai presented Vincent DiBargolo his card, and he said, "Well, what is this."

And so Ed Banyai says, "I represent the majority, and I am here for –"

I don't know how to pronounce it. Recognition.

Q. Then what happened? A. Then they got all upset.

Q. Who is they?

MR. BOGUT: Your Honor, can you ask the witness to speak up.

216 JUDGE WELLES: Just a little louder, please.

Q. (By Mr. Appell.) You say they got all upset.

Who is they? A. That was Charles, Vincent and Bob. They all got upset. And they told us, "Get out."

Q. Then what happened? A. Then Charles said, "Get out, get out, you are fired, we are going to lock the doors."

Q. What did Ed and Mary do? A. They told them to leave through the front doors.

Q. Who is they? A. The bosses, Charles and Vincent.

Q. They told Ed and Mary? A. To leave through the front doors.

Q. Did they? A. Yes.

Q. What did you do? A. Ed told us to go back to our machines, go back to work.

Q. Did you do that? A. Yes.

Q. What did the rest of the committee do? A. Everybody went back to their machines.

Q. What happened then? A. Well, the bosses came out of the office and they said, "Everybody wearing green union buttons, out of the shop."

217 Q. To your knowledge, was – were any of the people in the shop, other than the committee, wearing union buttons at the time? A. Yes.

To my knowledge, yes.

Q. What did you do then?

MR. BOGUT: What was the answer to the last question.

(Whereupon, the last question was read back.)

Q. (By Mr. Appell.) Did you leave the shop, then? A. Yes, we left the shop.

Q. What happened then? A. We went out onto the grass and Bob said to get off his property.

Q. How many of you were out there on the grass, or near the grass? How many went out? A. I think it was about twenty four.

Q. Now, did you thereafter leave the area? A. Yes.

Q. What did you do after you left? A. We went to the union office.

Q. Did anyone speak to you there? A. Yes.

218 Q. Who? A. Ed, Ed Banyai spoke to us, and Mary Ruggiero.

Q. What did they say? A. I –

Q. If you remember. A. I don't recall it.

Q. What did you – did there come a time after that when you went back to the shop? A. Yes.

That afternoon.

Q. About what time did you get there? A. I am not sure what time.

Q. Who was with you when you went back? A. Mary Ruggiero.

Q. Anybody else? A. And Barbara Laufman.

Q. Anybody else? A. And the rest of the girls from the shop.

* * * * *

220 Q. After that, did you ever take part in a meeting between the union representatives and the company bosses? A. Yes.

Q. When was that? A. That was the day after.

Q. What time was that meeting, do you remember? A. Eleven o'clock. I am not sure.

Q. In the morning or the – A. In the morning.

Q. Where was the meeting held? A. At the union office.

Q. Is that the Local 107 office? A. Right.

Q. Who was present at that meeting, besides yourself? A. Charles DiBartolo, Vincent DiBartolo, Bob Lipsenthal and their bookkeeper, Ellen.

Q. Who was present for the union, besides yourself? A. Ed Banyai and Mary Ruggiero.

Q. Was any of the other committee there? A. Yes.

221 Q. Who? A. Freda Tarsky, Gloria Maurice and Ethel Fitzpatrick.

Q. Do you remember what was said at that meeting, and who said it? A. Yes.

Q. What happened? A. They didn't understand what unfair labor practice was.

Q. Who is they? A. The bosses.

Q. Yes? A. And Ed Banyai was trying to explain it.

Q. What did he say? A. I –

Q. If you remember. A. I don't recall it.

Q. Do you remember anything else that Ed said, that the bosses said? A. Yes.

Charles DiBartolo said, "If there is no food in the pot, how are we going to feed the children."

Q. And did Ed answer that at all? A. No.

Q. Did Ed explain what an unfair labor practice was? A. Yes, he tried to.

222 Q. Do you remember what he said about that? A. I am not sure.

Q. Was any kind of an agreement reached at that meeting? A. No, there was none.

Q. Do you remember how the meeting ended, what was said at the end? A. Yes, that they would get in contact with their lawyers.

Q. Who said that? A. Charles and Vincent.

Q. Did you start picketing at any time? A. Yes.

They started picketing the day after.

Q. Day after what? A. The day after – September 21st.

Q. It was on September 21st? A. Yes.

Q. Did you picket? A. Yes.

Q. Did you carry a sign? A. Yes.

Q. Do you remember what the sign said, as best you can recall? A. On Strike, Dee Knitting Mills, for unfair labor practice, ILGWU, Local 107, AFL-CIO.

223 Q. Was that the sign you picketed with at the beginning or – A. That was the sign we picketed with at the beginning.

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236 FREDA TARSKY,

having been called as a witness, was duly sworn and testified as follows:

JUDGE WELLES: Please be seated and give your name and address to the reporter.

THE WITNESS: Freda Tarsky, 255 Edmunton Drive, North Babylon.

DIRECT EXAMINATION

Q. (By Mr. Appell.) Miss Tarsky, did you ever work for Dee Knitting Mills? A. Yes.

Q. When did you begin at Dee Knitting Mills? A. In the middle of March, I think.

Q. Of which year? A. Last year.

Q. 1973? A. Four, three, yes.

237 Q. Right. What job did you have at Dee Knitting Mills? A. I was an examiner and finisher.

Q. What were your hours of work? A. Eight to half past four.

Q. What was your rate of pay? A. Two dollars an hour.

* * * * *

249 Q. (By Mr. Appell.) Do you recall a date September 20th? A. That is the day we went on strike.

Q. Well, do you remember that day? A. Yes.

We didn't go on strike, we just wanted to negotiate.

Q. Right.

Do you remember what time you got to the shop that morning? A. A quarter to or ten to eight.

Q. Whom did you meet at the shop? A. Mr. Banyai and Mary Ruggiero.

Q. Who else was there? A. Me, Gloria, Ethel, and Betty.

Q. Where did you actually meet? A. We met outside. Then we went in.

Q. What happened when you went in? A. We walked straight to the office.

Q. Then what happened? A. Very quietly.

Then Mr. Banyai knocked on the office door and we was called in.

Q. Then what happened in the office?

Who was present besides – A. Us four.

250 There was Vinnie, Charley, Bob and Sal.

Q. Who is Sal? A. The knitter. The head knitter.

Q. Sal Tramuta? A. Yes.

And he offered his card, and he said he would like to – he would like to listen to, and negotiate for the union, and hell broke out.

Q. What happened? A. Well, he said, "No, we don't want to listen, we don't want a union," if we don't get out, he will call the police and this and that.

Q. Who said that? A. All the bosses.

And they wouldn't listen. And then they said they will do everything to stop it, and this and that.

Then they turned around to me and said you –

Q. Who spoke to you? A. Vinnie.

He said, "You get out, you are fired."

He must have thought I was, I don't know –

Q. Did anyone else say anything, at that point? A. Yes. "Get out." They were yelling and shouting.

Q. Did Bob Lipsenthal say anything to you? A. Yes.

Q. What did he say? A. He was surprised that I did this, and he said I spoke with a forked tongue to him. And if I wasn't a woman, he would know what he would do with me.

Q. What did you do then, after the – these things were said? A. I walked out. I didn't answer.

Q. Where did you go? A. Out in the yard, the parking lot.

Q. How did you get out there? A. I walked out.

Q. From where?

From the office? A. Right.

Q. Did you go right into the parking lot from the office, or – A. From the office, I walked straight through the room into the parking lot.

Q. Into the room? A. The parking lot.

Q. Oh. A. We were told to get out.

252 Q. Did you hear anything else said before you walked out? A. No. I don't remember.

Q. Did you picket after that? A. Yes.

Q. When did you start picketing, do you remember? A. The day after.

Q. Did you have a sign? A. Yes.

Q. Do you remember what the sign said? A. For Dee Knitting Mills, unfair labor practice, on strike for unfair labor practice.

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260 MARY DORIO,

having been called as a witness, was first duly sworn and testified as follows:

JUDGE WELLES: Please be seated and give your full name and address to the reporter.

THE WITNESS: Mary Dorio, 904 Fifth Street, West Babylon.

DIRECT EXAMINATION

Q. (By Mr. Appell.) Mrs. Dorio, did you ever work for Dee Knitting Mills?

A. Yes.

Q. Do you remember when you started?

The date or what month? A. May.

Q. Which year? A. 1973.

Q. What hours did you work at Dee? A. From eight to four thirty.

261 Q. What was your job? A. Machine operator.

Q. What kind of machine did you operate? A. A label machine.

* * * * *

270 Q. Did there come a time when someone asked you to join Local 107 of the Ladies' Garment Workers Union? A. Yes.

Q. Who was that? A. Barbara.

Q. Do you remember when she asked you? A. It was sometime in late August.

* * * * *

272 On September 20th, do you remember going to the – going to work that morning? A. Yes, I went to work.

273 Q. What happened? A. I went to work at eight o'clock, punched my card.

Q. What did you see then? A. Well, I saw Mr. Banyai, Mary Ruggiero and a few of the committee girls come in.

Q. What did they do, do you know? A. They walked through the shop and went into the office.

Q. Were you wearing a union button that morning? A. Yes, I was.

Q. Do you remember when you put it on? A. After the girls come out. Mr. Banyai come out, Mary Ruggiero and the girls come out, we all put buttons on.

Q. Why did you put a button on at that point? A. Well, we felt we

wanted, you know – just were told to put it on.

Q. Who told you to put it on? A. Mary Ruggiero and Mr. Banyai.

Q. And what happened after that? A. Well, the next thing I know, the boss comes out shouting and says everybody wearing a button, get out.

Q. Who said that? A. Charley and Vinnie.

Q. Charley – A. DiBartolo, and Vinnie.

Q. What did you do then? A. Well, we went out.

274 Q. What happened when you went out? A. We went out to the back of the parking lot, to get out cars, and during that time we went out on the lawn and Bob Lipsenthal come out and said to us, get off his lawn, go in the gutter. you are all fired.

Q. Did he say anything else that you now remember? A. Well, he said he had men, too.

Q. He had what? A. He had some men, too.

He knew a lot of men, too.

Q. What did you do after that? A. We went back to the union office.

Q. What did you do at the union office? A. Well, we discussed what had happened, and they made up signs, and we went back to picket.

Q. Did you picket that day? A. Yes.

Q. Did you picket the next day? A. Yes.

Q. Did you carry a sign? A. Yes.

Q. Do you remember what your sign said? A. Unfair labor practice strike. Unfair labor practice.

Q. The following day, Friday, September 21st, you picketed that day? A. Yes.

275 Q. Do you remember an incident that happened that afternoon? A. Yes.

Q. Do you remember what time it was, about? A. About one thirty.

Q. What happened? Tell us what you saw. A. I saw the station wagon come down, and you know it was his brother.

Q. Whose brother? A. The bosses brother.

Q. Do you know his name? A. Sal. Salvatore.

Q. Then what happened? A. Well, he come tearing in the driveway, and the girls were picketing, and he didn't give anybody a chance to get out of the way, he just gunned the motor and went right up to the shop.

During that time, he knocked one of our pickets over

Q. Who was that? A Rosetta.

Q. Do you know her last name? A. No, I don't.

276 Q. What happened when she was hit? A. Well, I heard her screaming, "Wait a minute, let me get out of your way."

But he didn't wait, he just kept going.

Q. Do you have any idea how fast this car was coming? A. He never slowed down to make the turn. As far as he was doing out in the road, that's the way he pulled in.

Q. What happened to Rosetta then? A. She was knocked down unconscious, and she was taken to the hospital.

She was hospitalized.

Q. Did anyone come out of the shop at that time? A. Yes.

Bob Lipsenthal come out, Charles the foreman come out, and he felt bad for the incident that happened.

Q. Did he say anything, Bob? A. Yes.

He said, "A strike is a strike, but to do this, you must be an animal."

Q. Did you hear Charley DiBartolo say anything? A. Well, his brother came out ofter a while, after the girl was taken, you know, we called the Rescue Squad and everything, and he looked kind of worried and his brother said, "What are you worried about, you have insurance."

Q. Who said that? A. Sal DiBartolo. I mean Charley DiBartolo said to Sal.

Q. Was he talking English or Italian, do you remember? A. He spoke

in English.

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286 ELVIRA ROMANO,

having been called as a witness was duly sworn by the Judge, and testified as follows:

JUDGE WELLES: Give your name and address to the reporter.

THE WITNESS: Elvira Romano, 116 John Street, North Massapequa.

DIRECT EXAMINATION

Q. (By Mr. Appell.) Miss Romano, did you ever work for Dee Knitting Mills? A. I did.

Q. When did you start work there? A. In September.

Q. Of which year? A. 1973.

Q. Do you remember what day it was? A. Day?

The day after Labor Day.

* * * * *

289 Q. Did there come a time when Barbara Laufman spoke to you? A. Yes.

Q. When was that? A. At lunch time.

Q. Do you remember the day? A. I think I was working there about a week.

Q. What did she say to you? A. If I would like to sign an authorization card to join the union.

And I said yes.

Q. Did anyone give you a card? A. Yes.

Q. Who gave it to you? A. Barbara.

* * * * *

292 Q. Okay.

On September 20th, did you go to work that day, Thursday, September 20th? A. Yes.

Q. What happened that morning? A. The committee was just walking in. I walked in after them. I punched my clock, and I saw them go into the office.

I went to my machine to start working, and all of a sudden, I saw them come right out, and when I saw them come out, that is when I put the buttons on, and Vincent, Charley start yelling, "Everybody's got the button is fired, get out."

So I took my belongings and I walked right out.

Q. Did anyone else leave at that time? A. Everybody did.

Q. What did you do when you got outside? A. I was standing on the grass, and – we were standing on the grass, and, I can't think of his name, – I can't think of his name, this fellow here.

Bob. Bob come out and told us that Charley and – Charley and Vincent, to get off their property, so we got out in the street, and Bob told Mr. Banyai that he should come inside, that he would show him there is – and nobody answered him, and we just walked out in the street, and that was it.

293 Q. Did you picket after that? A. Yes, the following day.

Q. Did you carry a sign? A. Yes.

Q. Do you remember what it said? A. We are on strike, Dee – something like this, "Dee Knitting Mill on Strike, Unfair to Labor Practice."

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CROSS-EXAMINATION

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295 Q. When was the last time you were employed before September of 1973?

A. The last time I was employed?

Q. Did you work during the summer of 1973? A. Yes.

Q. Where did you work? A. A & S Novelties.

Q. That wasn't a garment place? A. It is a garment place.

Q. Were you a member of 107 then? A. No.

Q. I see.

How long did you work at the A & S Novelty? A. A year.

* * * * *

300 ELLA SANTIAGO,

having been called as a witness, was duly sworn by the Judge and testified as follows:

JUDGE WELLES: Please be seated and give your name and address to the reporter.

301 THE WITNESS: Ella Santiago. 36 Summerville Street, Brentwood.

DIRECT EXAMINATION

Q. (By Mr. Appell.) Miss Santiago, did you ever work for Dee Knitting Mills? A. Yes.

Q. When did you start working there? A. Early in May.

Q. Of which year? A. 1973.

Q. What was your job with -- A. A zipper inserter.

Q. Did anyone else work on that job besides you? A. No.

Q. When you began, what was your rate of pay? A. A dollar thirty five a dozen.

Q. Did you work on a piece rate? A. Yes.

Q. Was that ever increased after that? A. Yes, that was.

Q. To what was it increased? A. You mean now?

How much I make now?

Q. At the time you last worked there, what were you getting? A. A dollar fifty.

* * * * *

302 Q. Do you recall a time when representatives of Local 231 gave out leaflets by the shop? A. Yes, I do.

Q. Do you remember when that was? A. In July.

Q. Where did you see them? A. Where did I see who?

Q. The representatives of 231. A. Outside in the parking lot.

303 Q. After that, did Vincent DiBartolo ever speak to you? A. Yes, he has.

Q. When was that? A. Right after the – right after the union came in and gave out leaflets.

Q. Where did Vincent DiBartolo speak to you? In his office.

Q. Was anyone else there? A. Only him and his brother.

Q. Which brother is that? A. Charley DiBartolo.

Q. Do you remember what time that was?

Do you remember what time was that you were in there? A. They was just going to – the bell was going to ring for the break time.

Q. How did you come into the office?

Did you go in by yourself, or were you called in? A. I went in my myself.

Q. Were you called into the office? A. They called me in.

Q. What did Vincent and Charley say to you in the office, when you went in? A. He said that he had heard rumors that I was putting the union in to the girls heads.

Q. Who said that? A. Vinnie.

304 Q. Did Vinnie say anything else? A. No.

Not that I recall.

Q. Did Charley say anything? A. Yes.

Q. What did Charley say? A. He said that he was gonng to be a bitch if the union came in, the he was going to ask the union to send more employees to lay us off more often, to get work out faster.

Q. Did Vinnie say anything else that you recall? A. We were there a long time, but I can't recall or pinpoint exact conversations that took place.

Q. Did Vinnie say anything about a raise? A. Yes.

He had given me a ten cent raise. I was then at a dollar forty five.

He brought it up to a dollar fifty, that I was given then.

Q. Was it that time in the office you say? A. Yes.

* * * * *

I show you General Counsel's Exhibit 3 which is in evidence.

Did you ever see a button like that before? A. Yes.

Q. When was the first time you saw it? A. On the nineteenth. September 19th.

Q. Did anyone give you such a button? A. Y

Q. Where was it that you got the button? A. At the union meeting.

Q. Did anyone talk to you about the button? A. Ed Banyai says that we were supposed to wear the button that when he would have gone in for recognition, the bosses would come out like gentlemen, and count noses.

Q. The following day, September 20th, did you go to work? A. Yes, I did.

Q. What time did you get there, do you remember? A. About fifteen minutes to eight.

Q. Did you go in to the shop? A. Yes, I did.

Q. What happened after you got to the shop?

What did you see, what did you hear? A. I went into the shop.

I was very nervous. I went to Paula's machine.

She is a special machine operator. We talked a while. Then the bell rang for eight o'clock. I went back to my machine. Then the committe came in.

Q. Then what happened? A. When the committee came in, they walked – Ethel left her purse by her machine and went in the office with Ed Banyai, Mary –

Q. Ruggiero? A. That is the one.

And for recognition. They knocked at the door, and that was all that I seen that happened.

Q. Then what happened after that? A. It didn't take them long, the girls came out of the office. Ethel told me, "Put your button on, we go back to work."

311 Q. Did you put your button on? A. I told her I have it on already.

Then Charley and Vinnie and Bob, they all come out, all at once, screaming everybody wearing a union button, get out of my shop."

Then I started to get up from my machine and walk away, Charley was coming back to the machine, he says, "That's all right, you girls can go back to the machine.

I told him no, I am one of them.

He told me to get out, also.

Q. You said what to Charley? A. That I am one of them, I have the button on.

Q. Then what did he say? A. To get out, also.

Q. Did you get out? A. Yes, I did.

Q. What did you do after you left the shop? A. We left the shop. We met Ed Banyai and Mary outside, and Bob came out saying that to get off his property, we belong in the gutter.

Q. What did you do after that? A. We went into the union office. We made up the statement and we came back again to the picket line.

Q. Did you picket for the union? A. Yes, we did.

312 Q. Did you wear a sign? A. Yes, I did.

Q. Do you remember what the sign said at all? A. On Strike Against Dee Knitting Mill for Unfair – that's the first sign.

For Unfair Labor Practice, AFL-CIO.

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320 PROVIDENCE NOLAN,

having been called as a witness, was duly sworn by the Judge and testified as follows:

JUDGE WELLES: Give your name and address to the reporter.

THE WITNESS: Providence Nolan, 150 Cove Street, Massapequa.

DIRECT EXAMINATION

Q. (By Mr. Appell.) Miss Nolan, did you ever work for Dee Knitting Mills?

A. Yes.

Q. When did you work there? When did you begin there? A. The beginning of September.

Q. Of which year? A. 1973.

Q. What hours did you work? A. Eight to three thirty.

Q. How much time did you get for lunch? A. Half an hour.

Q. What was your job at Dee Knitting Mills? A. I used to help the cutter, cut the material.

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324 Q. (By Mr. Appell.) I show you General Counsel's Exhibit 3 did you ever see something like that before? A. Yes.

Q. When was the first time you saw a button like that? A. We were given them the night before we were thrown out.

Q. And where was it that you were given this? A. At the union meeting, the last one.

Q. The next day, September 20th, did you go to work? A. Yes.

Q. What time did you get there? A. About ten to eight.

Q. What did you see when you came into the shop? A. We were talking. A few minutes before eight, Mary Ruggiero and Banyai and the committee that we elected the night before, walked in the shop.

They went through the shop, in the office. A few minutes later they came out, they had been fired.

So we all wore buttons, and we were told to get out, we were fired.

Q. Who told you to get out? A. I heard Charley DiBartolo, Vinnie DiBartolo and Bob.

Q. What did you do then? A. As we were walking out, Bob was behind us and he said it to Fera, to -- don't let him forget she was a lady.

As we were walking out, he said to somebody else, "Make sure the door's closed." If we try to come back, to call the police.

Q. What did you say that woman's name was? A. Fera. Fera?

Q. Do you know her last name? A. No.

Q. Are you saying Freda or Vera? A. Freda, something.

Q. Could you describe her, what she looks like? A. Short, fat.

Q. Did you hear Bob Lipsenthal say anything else? A. He came out a few minutes later. We were talking on the sidewalk, with Banyai, you know, to make up the arrangements how to go to the union office, and he came out and said to get off his property, or else he will call the cops.

Q. Did Eanyai say anything? A. Yes.

Banyai says, "This is not your property."

Q. Did Bob answer him? A. Yes.

Q. What did he say? A. He said, "It is so, and don't forget, I know people."

* * * * *

328 Q. The following day, September 21st, were you picketing? A. Yes.

329 Q. Do you remember an accicent – an incident that day? A. Yes.

Q. What time was that, about? A. Right after lunch.

Around 12:15.

Q. What did you see at that time? A. A car came down, speeding down the block, blowing the horn, and making no attempt to stop or slow it down.

He came right in through the parking lot, hitting Rosetta Lions.

Q. Rosetta Lions? A. Yes.

Q. Where were you standing when that happened? A. Right in front of her.

Q. Were you hit? A. No.

Q. What happened to Rosetta Lions after she was hit? A. She was on the floor, unconscious.

Q. What did the driver do? A. He wakked – he parked his car and

he walked right into the building.

Q. Did you know then who that driver was? A. Yes.

Sal DiBartolo.

Q. Had you ever seen him before? A. Yes.

330 Q. When had you seen him? A. In the shop a few times.

Q. What was he doing in the shop when you saw him? A. He used to come around look at the work, take things out.

Q. Did anyone come out of the shop after Rosetta was hit? A. Yes.

Bob was the first one who came out of the shop, and he says, "My God, my God, this is awful," he says.

"A strike I could see, but not hitting somebody."

And a few minutes after that Charles and Vinnie DiBartolo came out.

Q. Did they say anything? A. Following them was his brother Sal DiBartolo.

Q. Did Charley or Vinnie say anything? A. They kept on saying to us, "What are trying to do to him, you are trying to ruin us, why don't you go home," he said.

Q. Were they talking English or Italian? A. English.

Q. Did you hear Charles DiBartolo say anything else? A. Yes.

He told his brother Sal DiBartolo, not to worry about it, he has got

331 insurance for that.

Q. Did an ambulance come? A. Yes.

Q. Did the police come? A. Yes.

Q. Did you picket after that? A. Yes, we kept on picketing.

* * * * *

335 PAULA LIMERY,

having been called as a witness, was duly sworn by the Judge and testified as follows:

JUDGE WELLES: Please be seated and give your name and address to the reporter.

THE WITNESS: Paula Limery. 33 Maple Road, Amityville.

DIRECT EXAMINATION

Q. (By Mr. Appell.) Mrs. Limery, were you ever working for Dee Knitting Mills? A. Yes.

Q. When did you start working there? A. The end of April.

Q. Of which year? A. 1973.

Q. What was your job at Dee Knitting Mills? A. Special machine operator.

Q. What kind of machine was that? A. Well, I used to work a lot of machines.

Button hole, buttons, crochet machine, blinding machine.

* * * * *

341 Q. (By Mr. Appell.) Did you ever go to any union meeting after that? A. Yes, I did.

Q. Where were they? A. I went to one in Thompson's, it's around the neighborhood, Bayshore, Brentwood.

342 Q. Bayshore or Brentwood? A. Yes.

Q. I show you General Counsel's Exhibit 3.

Did you ever see a button like that before? A. Yes.

Q. Did you ever get one? A. Yes.

Q. Where were you when you got it? A. In the union office.

Q. Do you remember when that was? A. August-September 19th.

Q. Okay.

Who gave it to you? A. Ed Banyai.

Q. Did you go to work September 20th? A. Yes, I did.

Q. What happened that day? A. Well, that day I walked in, punched my card, and started to work. And the previous day we had chose a committee to walk into ask for recognition of the union, and Mr. Banyai and Glori Maurice, Betty and Ethel, they walk into the office, they knock on the door, and they went in like gentlemen, and they say they, you know, they wanted recognition for the union.

343 And then after that, we were working, and then Gloria came out of the office and she says, "Girls, put your buttons on and go to work."

That is what we did. Now, about a minute later I heard Charley Di-Bartolo come out of the office, and he kept yelling that everybody that has a button, to get out.

And that's what I did, I got out. We walked out.

Q. What happened when you got outside? A. Well, when we got outside, you know, we went to get the cards, and then I heard Bob, he said that to get off his property, that we all belong in the gutter, and that's all I recall that day.

Q. What did you do after that? A. Then after that, we went to the office, and we made up signs to go on strike, on the picket line.

Q. Do you recall what those signs said? A. Yes.

Unfair Labor Practice Against Dee Knitting Mills.

Q. That afternoon, did you picket, do you remember? A. Yes.

Q. The following day, Friday, September 21st, did you picket?

A. Yes.

Q. Do you recall an incident on that day? A. Yes.

344 It was about lunchtime, and I was eating lunch with the car, with Doris, and when I saw this car coming down the block, and he went through the

driveway, and there was this girl there, and she tried to tell him to stop, so she could get out of his way, but he never stopped.

He never once stopped and he hit the girl on the side and she just, you know, fell on the floor unconscious.

Then he went and parked the car and he never once did he come and look at the girl, how she was. He just walked into the building.

Q. Do you know who the driver was? A. Salvatore DiBartolo.

Q. Had you ever seen him before? A. Yes.

Q. When had you seen him before? A. In the shop a couple of times.

Q. What was he doing in the shop when you saw him? A. He used to come around to talk with the bosses, and take work out.

Things like that, you know.

Q. Did anyone call the police? A. Yes.

The police was called and the ambulance was called. And then they got the girl in there, to the hospital.

Q. Did you see any of the bosses at that time, after the accident?

345 A. Then they came out, Vincent and Charles, Bob, they all come out.

Q. Did they say anything? A. They helped with – Bob helped the girl in the, you know, in the stretcher, and that was it, that I recall.

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362 PHILOMENA LARITZA,

having been called as a witness, was duly sworn in by the Judge and testified as follows:

JUDGE WELLES: Be seated, and give your name and address to the reporter.

THE WITNESS: Mrs. Philomena Laritza, 1333 Ninth Street, West Babylon, Long Island.

DIRECT EXAMINATION

Q. (By Mr. Appell.) Miss Laritza, did you ever work for Dee Knitting Mills? A. Yes.

Q. When did you begin to work there? A. Towards the end of May.

Q. Of which year? A. 1973.

Q. What was your job at Dee Knitting Mills? A. Examiner at the table, and cleaning.

* * * * *

366 Q. Did there come a time when Barbara Laufman spoke to you?

A. Yes.

She spoke to me.

Q. When was that? A. Well, that was towards the end of August,

367 somewhere or other. I don't know the exact date.

Q. Where did she speak to you, do you remember? A. She had spoken to me and asked for my phone number, and I gave it to her, but I don't know for what reason she wanted it.

Then when she called me, she explained to me what it was all about.

Q. What did she say? A. She held a meeting for us at the Local 107, in Baysh e. And we all went there.

* * * * *

369 Q. (By Mr. Appell.) After you signed that card, did you ever attend any other union meetings? A. Yes, I did.

Q. How many? A. We went to three more meetings after that.

Q. Do you remember a meeting the night before your last day of work?

A. Yes.

Q. Who spoke at that meeting? A. Banyai.

Q. Were you given anything that night? A. No, just pamphlets.

Q. Were you given anything else, if you recall? A. No, I don't remember anything else?

Q. I show you General Counsel's Exhibit – A. Oh.

Q. Exhibit 3. A. That's right, a button.

Q. When were you given that? A. The night before. At the meeting.

370 Q. Did anyone say anything to you when you were given this?

A. No. We were just told to hold on to them.

Q. The next day, did you go to work? A. Yes.

Q. What time did you get there, do you remember? A. Eight o'clock I punched in.

Q. What happend then? A. Well, when I punched in, we were told, when we walked into the shop, the committed walked into the office, and all of a sudden I was just about to sit down and start working, and Vincent came over and said everybody that's got a button, to get out.

Q. When did you put – did you have a button on? A. No.

I was about to put my button on, when he told me to get out.

Everyone, in fact, not just me alone.

Q. Did you leave at that time? A. Yes, I left with the rest, with the committee and all.

Q. Did you picket after that? A. Yes.

* * * * *

371 Q. Did you use a sign when you picketed? A. No. Well, on and off I used a sign, yes.

Q. Do you remember what the sign said that you carried if you remember? A. Unfair to Labor Law Dispute.

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CROSS EXAMINATION

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376 Q. I see.

When Vincent DiBartolo came out that door, after the committee had come out, what did he say to you then? A. I –

Q. Did he point his finger at you? A. No.

Q. What did he say? A. He didn't – I didn't hear anything.

377 He just came out. That is all I could say. Because we just took off the picket sign and I went up at the other end of the shop, and I don't know what went on in the front of the place after we left the shop.

Q. When you were still in the shop -- A. When I was still in the shop?

Q. Yes. A. Nothing.

He just says to get out, that is all he says to me.

Q. He told you to get out? A. Yes.

Q. Vinnie DiBartolo said that? A. Vinnie DiBartolo said, "You are fired."

When he saw all the committee come in, and that was it. We all went out. He said, "Everybody's got a button, get out."

That is all I remember.

Q. What did he say to you, Mr. Vincent DiBartolo, what did he say to you? A. He says to get out.

Q. Okay. A. He said, "You are fired."

Q. Did Charles DiBartolo say anything to you? A. He said the same thing, we are all fired.

* * * * *

378 ANTOINETTE JACKSON,

having been called as a witness, was duly sworn by the Judge and testified as follows:

JUDGE WELLES: Give your name and address to the reporter.

379 A. THE WITNESS: Antoinette Jackson, 6 Martin Street, Massapequa.

DIRECT EXAMINATION

Q. (By Mr. Appell.) Miss Jackson, did you ever work for Dee Knitting Mills? A. Yes.

Q. When did you begin working there? A. I think about the 4th of September.

Q. Of which year? A. 1973.

Q. What job did you do there? A. I ran the sewing machine.

* * * * *

382 Q. (By Mr. Appell.) After you signed that card on September 12th, did you attend another union meeting? A. Yes.

383 Q. When was that? A. September 19, 1973.

Q. Do you remember if you were given anything at that meeting?

A. Green buttons. Union buttons.

Q. I show you General Counsel's Exhibit 3.

Can you identify that? A. Yes.

That's the button.

Q. Did you go to work the next day, September 20th? A. Yes.

Q. What happened that day? A. Well, I seen Mr. Banyai and Mary Ruggiero come in with four women that was chosen at the committee to go in and talk to the bosses.

I see them go in to the office, and it seems like, I don't know, a few minutes, and I heard a lot of shouting, and the bosses come out and said everybody that had union buttons to get out.

Q. Were you wearing a union button? A. Yes, I had just put it on.

Q. When did you put it on? A. Right after the girls went into the office.

Q. Then what happened? A. Well, we started to leave, and as we

384 were going out the back, I heard Bob say to one of the men, "close the door after them and make sure they don't come back in."

Q. Did you – what did you do after you left the shop? A. Well, we all met outside, and Bob came out and told us to get off the property, and then we went back to the union hall and formed picket lines.

Q. Did Bob say anything else at that time? A. Well, he said "Get

off my property, because I know the right people to get in touch with," something, you know, like that.

Q. Did you hear Bob speak to Freda Tarksy? A. Yes.

He said to Freda Tarsky something like, "Get off my property, or I will forget you are a lady."

Q. What did you do after that? A. We went back to the union hall and we got the picket signs, and then went back to the Dee Knitting Mills.

Q. Did you picket that afternoon? A. Yes.

Q. Did you picket the next day? A. Yes.

Q. Did you wear a sign? A. No, I – well, we sort of took turns with the sign, you know.

385 Q. Do you remember what the sign said that the people carried?

A. On Strike, Against Unfair Labor Practice, Dee Knitting Mills, I think.

Q. Friday, September 21st, did you picket? A. The 21st? Yes.

Q. Did you see an incident that afternoon? A. Yes.

Q. What happened, and tell what time it was? A. Well, it was just around lunchtime, sometime, I don't know for sure, because we had just finished our sandwiches and coffee, and we were walking around in a circle, in the back of the building, and some of us had containers of coffee in our hands, and we see a car come down the block, and all of a sudden it started turning in the driveway, and all I can say is he is not stopping.

And I heard the girl Rosetta Lions yell, "Wait, give me a chance to get out of your way," but she didn't have to get out of the way.

Q. What happened? A. I don't know, the next second she was on the floor, the car just kept right on going to the back of the building.

The man in the car got out and went into the building.

Q. Did you see the car hit Rosetta Lions? A. Yes, I did.

386 Q. Do you know who that man was? A. Not at the time I didn't. It was afterwards I found out who he was.

Q. Who – strike that.

Did you continue to picket after that? A. Well, after Rosetta was taken to the hospital, we continued picketing.

Q. Did anyone ever compliment you for your work while you worked at Dee Knitting Mills? A. Charley the foreman did.

Q. What did he say? A. He said I did it very fast, worked very fast.

Q. When was that? A. Oh, it was in – I don't know what date it was.

Just one of the times he had come over.

MR. APPELL: No further questions.

CROSS EXAMINATION

Q. (By Mr. Bogut.) Mrs. Jackson, prior to the time that you started at Dee Knitting Mills, were you a member of Local 107? A. Yes.

Q. And when you started at Dee Knitting Mills on September the 4th, 1973, where had you worked prior to that? A. Gino's, in Deer Park.

387 Q. Was that another textile house? A. By textile, it's a sportswear place.

Q. Makes sportswear.

What do they make there, tops? A. Slacks, dresses, gowns.

Q. I see.

When did you leave them? A. Just around – if I started three – it got slow there, so I have to work, so –

Q. Were you laid off at the other place? A. Yes.

It was slow.

Q. How did you find out that Dee Knitting Mills had employment open? A. I asked the union, and they told me.

Q. I see.

Was that Mr. DiBartolo?

The owner, you said you asked the owner?

JUDGE WELLES: The union.

A. Ask that again.

Q. How did you find out that there were openings for your services as an operator at Dee Knitting? A. I asked for a job at the union and they said there is openings there, go see if they would hire you.

Q. That was 107? A. Yes.

388 * * * * *

391 MR. APPELL: Your Honor, at this time I propose some stipulations which I believe were arrived at during our off the record discussion.

First, the corporate officers of the three companies which are respond-

392 ants in this case. Dee Knitting Mills, president, Vincent DiBartolo, secretary, Calogero DiBartolo, who is the same person who has been referred to as Charles DiBartolo, in this hearing.

Three D Knitting Mills, Inc., president, Vincent DiBartolo, vice president, Salvatore DiBartolo, secretary, Calogero DiBartolo.

Dippy Knits, president, Vincent DiBartolo, secretary, Calogero DiBartolo, treasurer, Robert Lipsenthal.

MR. BOGUT: So stipulated.

* * * * *

399 16 Court Street
Brooklyn, New York
Wednesday, January 23, 1974

* * * * *

462 ADELINE BONANZA

was called as a witness and, having been first duly sworn, was examined and testified as follows:

JUDGE WELLES: Give your name and address to the reporter.

THE WITNESS: Adeline Bonanza, 14 Andover Drive, Deer Park 11729.

DIRECT EXAMINATION

Q. (By Mr. Appel) Miss Bonanza, did you ever work for Dee Knitting Mills? A. Yes, I did.

Q. Do you remember when you started there? A. September 17

463 of '73.

Q. What was your job with Dee Knitting Mills? A. A cleaner.

Q. What was your rate of pay? A. $2 an hour.

Q. What were your hours of work? A. 8 to 3:30, I believe.

Q. When you were hired whom did you speak with? A. I spoke with one of the bosses and they referred me to Charles, the foreman.

Q. Which boss did you speak to, do you know? A. I cannot tell the difference between the two bosses, they are twins. One of the DeBartolo men.

* * * * *

466 Q. I show you General Counsel's Exhibit 3 which is in evidence. Were you ever given a button like that? A. Yes, I was.

467 Q. Where were you were given that button? A. At the meeting.

Q. When was that? A. At the meeting hall, yes. You want the date?

Q. Was that the same meeting you testified to earlier? A. That's right, there was only one meeting that I attended.

Q. Did you go to work on Thursday morning, September 20th?

A. Yes, we did.

Q. Will you tell us what happened on that morning? What did you do and what did you see and hear? A. Okay. I got in about I would say 10 of 8. That is the normal time, and I went in there, put my bag down at the table where I worked, my bag, my lunch, what-have-you.

I hung up my coat. After that I went back to my table and I saw the committee walking in to go into the office to be represented by the union.

I don't know how long they were in there. At that point I heard somebody say, "Button up". Now, who said it I don't know.

Q. What did you do then? A. I took the button out of my bag and put it on. I chit-chatted with the girls a few minutes and at that point the bell rang and I was ready to start work.

468 People came out of the office and we milled around for a moment or so. I heard one of the DeBartolo men say, "All of you with buttons on are all fired, get out of my building", and we did.

Q. What did you do when you got outside? A. We, some of us stood near the curb, some stood on the grass, some stood in the street and we talked. We discussed things.

Q. Did you hear any of the bosses say anything? A. Yes, I heard one boss say something.

Q. Which boss? A. Bob Lipsenthal.

Q. What did he say? A. He yelled out something to Mr. Benguet (phonetic) and to the girls, something about his property and he turned around and said to Mr. Benguet, "Get off my property", Mr. Benguet answered, "You have broken enough laws, I think you should go back."

And Mr. Lipsenthal turned around and said, "Come back here and I will show you". Those were the words I heard.

Q. By the way, did anyone ever compliment you for the work you did? A. Yes.

Q. Who was that? A. Charles.

469 Q. Which Charles? A. The foreman.

* * * * *

CROSS EXAMINATION

* * * * *

472 Q. Did you vote for these people at the meeting on the evening of the
473 19th of September? A. Yes.

Q. Were you present when the vote was taken? A. Yes.

Q. Who conducted that meeting, do you remember? A. No.

Q. Could it have been Barbara Laufman, do you know? A. It could have been but I'm not sure.

* * * * *

475 Before September 17, 1973, were you employed the week before that?

A. No.

Q. When was the last time you were employed before September 17th?

A. Oh, the first week in September I was off for about two weeks.

Q. You had been employed prior to that? A. Yes.

Q. Were you a cleaner in some other textile house? A. No, I was an operator.

Q. Would that be running a sewing machine? A. Yes.

Q. You came to Dee Knitting on Monday the 17th? A. Yes.

Q. Do you recall what time you arrived there? Did you arrive in the morning? A. In the morning, yes.

476 Q. About what time, do you remember? A. Oh, close to 8.

Q. Did you come there with anybody else or were you alone?

A. I was with Miss Lombardo.

Q. Is Miss Lombardo an employee at the Dee Knitting Mills?

A. She was.

Q. What was her first name, Gilda? A Yes.

Q. Did Gilda work at the other place with you when you were an operator some time before you were laid off? A. Yes.

Q. What did she do there? A. She was – where?

Q. At the other place where you were co-employees. A. Also an operator.

Q. How did you learn that there were employment opportunities at Dee Knitting? A. Through the union I had gone up to the office and told them my place was slow and that I was looking for another job.

Q. Was that 107? A. Yes.

* * * * *

480 GILDA LOMBARDO

was called as a witness and, having been first duly sworn, was examined and testified as follows:

JUDGE WELLES: Please be seated. Give your name and address to the reporter.

THE WITNESS: Gilda Lombardo, 25 Long Shore Street, Bayshore.

DIRECT EXAMINATION

Q. (By Mr. Appel) Miss Lombardo, did you ever work for Dee Knitting Mills? A. Yes, I did.

* * * * *

485 JUDGE WELLES: On the record.

Before I start I will grant a motion to withdraw that portion of the stipulation that deals with the conclusionary language of Paragraph 4 in the

complaint.

Go ahead.

MR. BOGUT: It is hereby stipulated by and between general counsel and respondents that with respect to Dee Knitting, directors: Vincent DeBartolo, Calogero, a/k/a Charles DeBartolo. Stockholders, 50 shares, Vincent

486 DeBartolo, 50 shares, Calogero a/k/a Charles DeBartolo.

Three D. Directors or rather, Dee Knitting, Charles and Vincent DeBartolo are directors.

Three D, directors, Salvatore DeBartolo, Vincent DeBartolo and Calogero DeBartolo.

There are no stockholders, no stock having been issued.

Dippy. Directors, Vincent DeBartolo, Calogero a/k/a Charles DeBartolo, Robert Lipsenthal.

Stockholders, Calogero DeBartolo 49 shares, Marie DeBartolo one share, Vincent DeBartolo 49, Doris Helen DeBartolo ux, one share, Robert Lipsenthal 49, Rhea Lipsenthal, ux, one.

MR. APPEL: Based on counsel's representation, your Honor, I so stipulate.

DIRECT EXAMINATION

Q. (By Mr. Appel) Miss Lombardo, did you ever work for Dee Knitting Mills? A. Yes, I did.

Q. When did you begin working there? A. On September the 17th.

Q. Of which year? A. '73.

Q. Up to that time were you a member of any union? A. Yes, I was.

487 Q. What union? A. The International Ladies Garment Union.

Q. Any particular local? A. 107.

* * * * *

489 Q. I show you General Counsel's Exhibit 3 which is in evidence. Did

you ever see a button like that before? A. Yes.

Q. Where was that? A. I was handed one at the union meeting.

490 Q. Were you given any instructions about the button? A. Yes, I was told to put it on the next day.

Q. The next day, Thursday, September 20th, did you go to work? A. Yes, I did.

Q. What time did you get in? A. 10 to 8.

Q. What happened that morning? What did you see, what did you do, what did you hear? A. Well, that morning I walked over to my table and Mary Ruggiero and Mr. Benguet came in with a committee of four they had picked out, four girls from the different sections, and they went into the office and when the representative from our table came out –

Q. Who was that? A. Freda, she says, "Okay, girls, put your buttons on", so we put our buttons on and that was it about the button.

Q. What happened after that? A. After that the boss came out of the office and he came over to the table and told Freda she should get out, she was fired.

So then he looked around –

Q. Who was that? A. Charlie DeBartolo. He looked around and he saw the girls at the table with the buttons and he says, "Everybody with

491 with a button get out, you are fired."

Q. Were you wearing a button at that time? A. Yes, I was.

Q. Then what happened? A. Then we all got up and we walked out the back door.

Q. Do you know if anybody else was wearing a button? A. Oh yes, there were quite a few girls wearing buttons.

Q. When you went out what did you do then? A. Well, we all went out to the curb and Mr. Benguet and Mary came around from the front and they came to stand where we were and this gentleman named Bob, I don't

know his last name, he came out the back door and he told Mr. Benguet to get off the property, to get out in the gutter "where you belong".

Mr. Benguet turned around and told him we were not on his property, we were where the sidewalk would originally be.

So after that we just got into the cars and went to the union office.

Q. Did Bob say anything else? A. He says, "Come over here and I will show you."

Q. Who did he say that to? A. To Mr. Benguet, but he ignored him.

Q. Then what did you do? A. We got in the cars and went back

492 to the union office.

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CROSS EXAMINATION

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494 Q. How did you determine that there might be employment available at the Dee Knitting? A. Well, I wasn't working at my place, it was slow, so I went to the union office and asked them if they had anything available.

Q. When did you go to the union office? A. Oh gee, the week before I went in there.

Q. That would be 107? A. Yes.

* * * * *

499 CECELIA BARBOUR

was called as a witness and, having been first duly sworn, was examined and testified as follows:

JUDGE WELLES: Give your name and address to the reporter.

500 THE WITNESS: Cecelia Barbour, 525 Secatogue Avenue, Farmingdale, Long Island.

DIRECT EXAMINATION

Q. (By Mr. Appel) Mrs. Barbour, try to keep your voice up.

Mrs. Barbour, did you ever work for Dee Knitting Mills? A. Yes, I went to work in September.

Q. Do you remember what day it was, what date? A. Well, I'm not sure what day it was in September.

Q. Was that 1973? A. Yes, sir.

* * * * *

507 Q. (By Mr. Appel) Mrs. Barbour, did you go to work on Thursday, September 20th? A. Thursday, yes, sir.

Q. What time did you get in that morning? A. Before 8 o'clock. I punched my card, I went in.

Q. Tell us what happened on that morning, what you saw, what you heard and what you did. A. Right.

I went in. A couple of minutes later Barbara came and told us, "I have buttons for you, to put it on."

So I say all right.

So she give me the button and I put it on, my button, and a few seconds later the union agents came in with -- how do you call it, the girls.

They went in to where the bosses, the office and I was ready to sit at my machine working when the bosses coming out with a big screams and they say everybody to have the buttons on fired, out, get out.

So I had my button and I went out.

Q. By the way, had you gone to a union meeting before that?

A. No, sir, I can't make it.

Q. Before you went out did you hear any of the bosses say anything else to anyone? A. Yes.

508 Q. What did you hear? A. I hear screaming one of the ladies and telling "You the troublemaker."

Q. Do you know who said that, which boss? A. One of the two boys, I don't know, I really –

Q. One of the two brothers? A. One of the two brothers.

Q. To whom did they say it, do you recall that? A. One of the ladies. I think the short fat lady.

Q. Do you remember who said that to the short fat lady? A. Who?

Q. Yes, do you remember who said that to the short – A. One of the bosses, I don't remember who.

Q. Did you go outside? A. Yes, I went out.

Q. What happened then? A. When I went out and the union agents was out and one of the bosses came to fight with him, cursing him. I don't know the words, can't remember, but I know the screaming and all of that, the excitement.

Q. Did you picket after that? A. After that I went to the office.

Q. What happened at the office? A. Made arrangements for the picketing. They come back to picket.

509 Q. Did you picket after that day? A. Yes, sir.

Q. Did you picket the next day? A. Yes, sir.

Q. Did you see an incident that next day? A. I was in the other end, in the office side.

Q. You didn't see it? A. I don't see.

Q. Did you see anything that happened afterwards? A. Well, the moment what I knew was somebody screamed, call the cops.

Q. What? A. They was running, so the girl laid down in the floor and then the cops came, the ambulance came. That is all I know.

* * * * *

511 CROSS EXAMINATION

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Q. Prior to your working at Dee Knitting Mills I think you testified

512 you were a member of the 107 union? A. I never testified because I belong to 155 Local but the same union.

Q. Is that one of the Ladies Garment local unions? A. Excuse me?

Q. Is that a union connected with the Ladies Garment Workers, the same as 107? A. Exactly.

Q. Where did you work last before taking employment at the Dee Knitting Mills? A. Fairfield, Noble.

Q. When did you terminate with Fairfield Noble? A. Well, I was working with them six years, and –

Q. When did you leave? A. Excuse me?

Q. When did you leave there? A. Well, my place was slow, very slow, and then I look in the paper and I find in the paper and I went to this place.

Q. Did you find out about Dee Knitting Mills through an ad in the paper? A. Yes, sir.

* * * * *

522 DORIS TRAMONT

was called as a witness and, having been first duly sworn, was examined and testified as follows:

JUDGE WELLES: Give your name and address to the reporter.

THE WITNESS: Doris Tramont.

DIRECT EXAMINATION

Q. (By Mr. Appel) Your address, please. A. 17 Sheridan Road, Babylon, New York.

Q. Mrs. Tramont, did you ever work for Dee Knitting Mills?

A. Yes.

Q. When did you start working for Dee? A. May 14th.

523 Q. Of which year? A. '73.

Q. What was your job at Dee Knitting Mills? A. I was separating material.

* * * * *

525 Q. Mrs. Tramont, I show you General Counsel's Exhibit 23. Whose handwriting is on that card? A. That is mine.

Q. Is the signature on that card yours? A. Yes.

526 Q. Who gave you that card? A. This card was given to me by Barbara.

Q. Is that Barbara Laufman? A. Yes.

* * * * *

528 Q. (By Mr. Appel) Mrs. Tremont, did you go to work on Thursday, September 20th? A. Yes.

Q. What time did you get there, do you remember? A. About 8, 7:45, about 7:45.

Q. Did you see anyone when you got there? A. Yes, there were a lot of, you know, people were gathered outside and inside.

Q. Did you speak to anyone? A. I spoke to Barbara who gave me a button and said to put it on.

529 Q. I show you General Counsel's Exhibit 3 – A. That is the one, yes.

Q. By the way, had you gone to a union meeting the night before? A. No, I haven't.

Q. Did you go inside into the shop? A. Yes.

Q. What happened? A. I went inside. I punched the clock. I went to my table and put my pocketbook down what I usually do, and one working place has a cleaning store and he returned my suit.

So I took my suit and I took it out into the car and then I came back into the place and when I came back to the place most of the girls were walking towards me and they said, "We just been fired."

So I took my pocketbook and I left with them.

Q. Who told you they had just been fired? A. One of the girls

was Mary Dorio, she came toward me.

Q. Were you wearing a union button at that time? A. Yes.

Q. When had you put the button on? A. As I came inside Barbara gave it to me outside and I put it on inside.

530 Q. When you went outside did you stay around for a while or did you leave immediately? A. When we went outside we were gathered outside in front of the big garage door.

Q. What happened then? A. And then Bob came out and he was quite upset and mostly what I heard, I was quite upset about it, was that he talked to Freda to get off the property, she belonged in the gutter. That is all I –

MR. BOGUT: Objection, your Honor, it is hearsay. She is repeating what someone else told her.

JUDGE WELLES: She is repeating what she heard I though.

MR. APPEL: That is what I thought.

MR. BOGUT: Maybe I am mistaken. Can it be read back?

(Whereupon the pertinent portion of the record was read by the reporter)

JUDGE WELLES: The objection is overruled.

Q. What did you do after that? A. Well, I just followed the group which walked onto the street and I was shaking a bit, upset of course. I didn't expect it and that was it.

I just followed everybody. We went to the union office.

Q. What happened at the union office? A. And we talked and it was decided that we were going to picket. That is it.

531 Q. Did you take part in picketing? A. Yes.

Q. Did you picket the next day, Friday, September 21? A. Yes.

Q. Do you remember what happened that day? A. Yes.

Q. What happened? A. I was sitting in my car, parked in my car in front of the driveway going into the parking lot when a station wagon came

and blowing his horn constantly, pulled into the driveway without stopping and I seen Rosetta there and she – the only thing I can explain is like if something if it would be me, something comes automatically you put your hands out and she was there with her hands out trying to stop the car and that is it.

She fell over and the car just kept on going in front of the garage door. The person got out and walked inside and then the other people came from the job outside.

Q. Did you see where the car hit her? A. I could only see the car coming because it was in front of me and Rosetta was on the other side.

Like I said, first she held her hands out to push it away and then she was gone. I seen her coffee cup flying, so –

532 Q. Do you know who the driver was? A. It was one of the brothers from Brooklyn.

Q. From Brooklyn? A. I believe.

Q. Do you know his name? A. I can't remember right now.

Q. Was it a brother of Charles and Vincent DeBartolo? A. Yes.

Q. Had you ever seen him there before at the shop? A. Yes.

Q. How many times had you seen him there? A. I can't count really. Maybe once a week, I don't know.

Q. Do you know what he does when he comes to the shop?

A. As far as I see he picks up material.

Q. After this incident did any of the owners or bosses come out of the shop? A. Yes.

Q. Did any of them talk? A. Well, everybody was upset. Bob mentioned something about animals which I didn't – that is all I heard from him.

Q. Who was he talking to, do you know? A. Well, I really don't know because they all charged out like, you know, a gathering around Rosetta.

Q. Did you hear Vinnie deBartolo? A. I don't know who said it

533 to – he mentioned "What do you want to hurt people for?"

So I don't know who it was directed at but that is what I heard.

Q. Did the police come? A. Yes.

Q. Before this injury occurred to Rosetta did you notice whether any of the pickets were hitting the car or pounding on the car? A. No, I have not.

Q. Did you see anything like that? A. No.

Q. What were the pickets doing when the car came into the driveway? A. They was standing alongside the driveway as I seen it. They were standing alongside, and Rosetta was in the middle of the driveway and as the car, the horn blew and the car pulled in, as I seen it she couldn't get out of the way.

Q. After that for how long had you picketed? A. For a short while.

Q. A week, two weeks, three days? A. Oh, I see what you mean. No, I have since picketed until recently when I went into the hospital.

Q. Have you ever seen, besides this accident, have you seen any kinds

534 of violence or physical violence on the picket line? A. No.

Q. Did you carry a sign? A. Only once.

Q. Do you remember what the sign said? A. Unfair labor practice and with the initials of the union, ILGW, you know, unfair labor practice strike.

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CROSS EXAMINATION

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535 Q. When you got to work the morning of the 20th, the day the trouble was, what time did you arrive at work? A. 7:45.

Q. When you got to work did you come alone or were you with someone? A. I was alone.

Q. Did you drive your own car? A. Yes.

Q. And you parked it in the parking lot in the back? A. Yes.

Q. Then what did you do?

Did you meet anybody in the parking lot? A. In the parking lot I met Barbara who gave me the button and she told me to put it on.

Q. Did you put the button on then? A. Yes.

Q. Then what did you do? A. And I walked inside and I punched my card and I walked to my table.

Q. That would be the separating table? A. That's right.

536 Q. That separating table is, as I recall, located about in the middle of the shop? A. Yes, fairly in the middle.

Q. Is it right in front of where there are some metal racks to put pieces of material that have been cut? A. There was no metal rack.

Q. Was there a metal rack between your table where you worked? A. There was like a shelf type of thing.

Q. Shelving? A. Next to my table was a shelf.

Q. Was that shelf between the table and the back door? A. No.

Q. Where was it? A. The shelf was to my left facing the wall of the factory.

Q. Do you normally face the wall of the factory? A. No, when I work I face the front of the factory.

Q. After you punched your clock you put on your button and you punched your clock and you went in? A. Yes.

Q. Then what was the next thing you did? A. I walked in to my table and put my things where I usually put them. That is it.

Q. Then what did you do? A. Then I noticed that my suit which

537 I had cleaned was hanging on that particular rack which I just wanted to know about and I took it and put it in my car.

Q. Did you take the suit outside and put it into your car? A. Yes,

my car was parked outside.

Q. When you were at your table before you went with your suit outside what did you see, if anything? A. People gathering. I knew something was going on but since I didn't attend the meeting before time I really didn't know what it was.

But there were a lot of our girls wearing the buttons and that is it.

Q. When you say they were gathering, I don't know what you mean. A. Well, they were in groups. Some were by the machines talking, some were in the middle and there was something going on in the office but like I say I didn't know what was going on.

Q. You got the impression that something was cooking? A. Yes.

Q. Isn't that true? A. Yes.

Q. You say your suit, I assume you mean some type of dress? A. Yes, a pants suit.

538 Q. How did that come to be in the shop? A. One of the workers owns a cleaning shop and I have my suit cleaned by him.

Q. Do you remember what his name was? A. Chris.

Q. What is his last name? A. I don't know. Tell you the truth what is, it slipped my mind. I really don't know.

Q. Could it have been Chris Tramuta? A. That's right.

Q. Did you see Chris Tramuta there that day? A. No, I didn't. I only seen my suit and that is it.

Q. The day before when you left was your suit there? A. No.

Q. You went out to your car? A. Yes.

Q. Did there come a time when you went back into the plant? A. Well, after I put my suit in the car I locked the car and I walked back in.

Q. What did you see, if anything, when you walked in? A. I walked in and as I neared my table quite a few girls, as I say, most of the girls come walking towards me.

One of them is Mary Dorio who said, "We just been fired."

539 Q. When you say you were at your table and they were walking towards you? A. I was walking towards my table and as they were walking towards me.

Q. So you were going from the outside door to your table and these ladies were going in the opposite direction? A. Toward me.

Q. Were they going toward the door? A. Well, let's say this way, my work table is almost in the middle of the shop so I was quite close to my table as they were walking toward me from the front of the building.

Q. Then what did you do? A. So when I have been told we just been fired I picked up my pocketbook and bag and I went with them.

Q. You went outside? Were you in that group of ladies when you all went outside? A. We all went outside, yes.

Q. Then what is the next thing that you saw? A. When we were outside and we were in the parking lot and then Bob came out and he was angry or upset and he was saying that, especially what I noticed, was saying to Freda that she should get off the property and she belonged in the gutter.

Q. Is that the first time you saw Bob? I assume you mean Bob

540 Lipsenthal? A. That's right.

Q. Is that the first time you saw Bob Lipsenthal that day? A. That morning, yes.

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547 DONNA BAIERA

was called as a witness and, having been first duly sworn, was examined and testified as follows:

JUDGE WELLES: Give your name and address to the reporter.

THE WITNESS: Donna Baiera, 956 North Greene Avenue, Lindenhurst, Long Island.

DIRECT EXAMINATION

Q. (By Mr. Appel) Miss Baiera, did you ever work for Dee Knitting
548 Mills? A. Yes.

Q. When did you start working there, do you remember? A. The end of June.

Q. Of which year? A. 1973.

Q. What was your job with Dee Knitting Mills? A. I laid up material.

Q. What does that involve, what does that mean? What did you do?
A. Like there was material on the table and I took it off and I put it on another table and laid it up so it was even, so this way the cutter could cut out the pattern pieces.

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549 Q. Do you know who Marie Foth is? A. Yes.

Q. Who is she? A. She worked with me.

Q. Do you know if she started around the same time as you did?
A. Yes.

MR. BOGUT: Objection, your Honor. How can she testify what her friend did?

JUDGE WELLES: She can testify when somebody went to work. Objection overruled.

A. We started to work at the same time.

Q. Was she present at the same interview that you had with the boss or was it a different one? A. No, we both went in together.

Q. Did you hear him talk with Marie Fox, the boss? A. He like talked to both of us together. It wasn't – whatever he said he said to both of us.

Q. Do you recall anything else that he said? A. Not really.

Q. Which boss was this by the way? Was this Vincent or Charles

DeBartolo? A. Vincent DeBartolo.

Q. Do you recall any mention as to how long you would be there?

550 A. No.

Q. Do you recall any mention by Vincent saying anything as to how long you would be working for them? A. No, we didn't really talk about it.

Q. Did there come a time when you were out of work for a couple of weeks? A. Yes, towards – we worked for the whole summer and then towards the end of the summer he knew, I told him I had to go back to school and that if I could work part time after school and then I took off two weeks from the summer, in between the summer when I stopped working and when school started so I could get ready for school and everything and then I went back to work.

Q. When you left at the time at the end of the summer for those couple of weeks which boss did you speak with? A. I spoke with Charlie the foreman. I told – instead – I talked to him and he said he would talk to the boss to find out if it was all right if I worked part time after school or not.

Q. Whom did you talk to about the fact that you had to take off a couple of weeks to get ready? A. I told Charlie the foreman.

Q. Do you know his last name? A. No.

Q. Did you see him here today? A. Yes.

551 Q. Where did you see him? A. Outside.

MR. APPELL: Will respondents' counsel stipulate that the witness referred to Charles Reina?

MR. BOGUT: Yes.

Q. Then what did Charles Reina say to you when you told him all this? A. He said he would talk to the boss and let me know if it was all right if I worked part time at the school.

Then the day I left, right before I left I asked him again and he said it was all right, that I could work part time.

Q. Who said it was all right? A. Charles the foreman told me that the boss said it was okay.

Q. When you came back part time what hours did you work?

A. 1:30 to 4:30.

Q. How many days a week did you work when you came back?

A. A regular week.

Q. What time did you finish school? A. 1 o'clock.

Q. Then you went right to work? A. Yes.

Q. How about Marie Forth, do you know what happened with her at

552 that point when you left for two weeks? Did she leave also?

A. Yes.

Q. Did you hear her talk to anybody? A. No. It is like I talked for both of us because we were both doing the same thing.

Q. What did you state to Charles Reina about Marie? A. Like when I talked to him, instead of just saying "I would like to", I said "We", you know. I spoke that way, and he understood to be both of us.

Q. When he answered you did he answer just with respect to you or –

A. No, he said we both could.

Q. Did you tell that to Marie? A. Yes.

Q. Did you know Marie Foth before coming to the job? A. A little, not – we weren't very good friends just, you know, like I knew her from school.

Q. Did you go to the shop together to ask for the job or was it separate or what? A. No, we went together because we live near each other.

Q. When Marie went back to work did she work the same hours you did or were they different? A. No, she worked the same hours as me.

Q. 1:30 to 4:30? A. Yes.

553 Q. When she went back on that part time basis do you have any personal knowledge as to what her plans were aside from work? A. No.

Q. Do you have any knowledge as to what her plans were as to school? A. Well, I knew she was supposed to be going to college. I wasn't sure if it was going to be in January, you know, or if it was going to be in September.

Q. Did she ever tell you anything about that? A. We never really talked. I just knew she was going but like we had just started school and it wasn't definite yet if she would be able to graduate in January or not.

MR. BOGUT: Your Honor, I object to any further question with reference to a Marie Foth.

Let them bring the witness in if they want to find out about her personal life and work habits.

JUDGE WELLES: Objection overruled. It is perfectly valid testimony.

Q. Do you know when Marie Foth did graduate from high school? A. I think it might have been like the end of December, you know, before Christmas recess. I'm not sure though because I haven't seen her. The last time I saw her, it was the last time I went to work. I really haven't kept

554 in touch with her.

Q. Do you know personally when she started college? A. Not the time, no.

Q. Do you know how long ago it was? A. I guess a couple of weeks, about three or four weeks maybe.

Q. Did there come a time when she left home to go to college? A. Yes.

Q. When was that?

MR. BOGUT: I object to this. He hasn't laid a foundation. How does she know when the girl goes to college or doesn't go?

JUDGE WELLES: If she knows and to the extent she knows. She has

indicated she is not sure.

Q. Do you know when she went away to college? A. I don't know the exact day.

Q. Do you know how long ago from now it was? A. I guess about a couple of weeks or a month, I'm not sure really.

MR. BOGUT: I object. This witness is young and impressionable and she can be led around by counsel.

MR. APPEL: I object to that characterization.

JUDGE WELLES: I don't believe she is being led.

555 Q. Did Marie Foth do any work that was different from what you did at the shop as best you recall? A. Well, we started out doing the same thing. Then like I did a few like other little things more and she did them too, but I did them more than she did, you know what I mean?

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556 Q. And the date on that card, is that the date you signed it?

A. Yes.

Q. Was anyone else present when you signed that card? A. Yes.

Q. Who? A. Two women from the union. I don't know their names, and Barbara.

Q. Did anyone talk to you when you got that card? A. What do you mean?

Q. Did anyone say anything when they gave it to you? A. Yes, Barbara explained to me about the union and then she gave me the card.

Q. What did she say to you about the union as best you remember?

A. She was telling me about some of the benefits. She told me if I wanted the union to sign the card and give the card back to her.

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560 Q. I show you this card that has been marked as General Counsel Exhibit 25, Miss Baiera. Have you ever seen that card before? A. Yes.

561 Q. When did you see that? A. When I gave it to Marie.

Q. Do you remember what date that was? A. It was the same day that I got my card.

Q. How did you get the card to give to Marie? A. Barbara gave it to me when she gave me mine.

Q. Did she say anything to you about that? Did she say anything particularly about the card that you were to give to Marie? Did she say anything to you? A. She just explained to me, you know, that I should tell Marie about explaining to her about the union, this way she understood what she was signing before she signed it.

Q. Did there come a time when you gave that card to Marie Foth? A. Yes.

Q. Where was that? A. In on our way going home from work in my car.

Q. Was that the same day or what day was that? A. I don't remember if it was the same day I got the card.

Q. What did you say to her when you gave her the card? A. I told her what I knew about the union. You know, about the benefits and the other things that I knew about it and told her if she wanted to sign she could if she wanted to be union.

562 If she didn't want to be union she didn't have to sign it.

Q. What did she do then? A. She signed it.

Q. Did you see her sign it? A. Yes, I did.

Q. This is the card that you saw her sign? A. Yes.

Q. What happened? What did she do with the card after she signed it? A. She gave it to me.

Q. What did you do with it? A. When I saw Barbara that night I gave her Marie's card with mine.

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564 MR. APPEL: Your Honor, perhaps the record should show that Marie Foth was subpoenaed and I subsequently got a letter from her mother informing me she has gone away to college. It would be extremely difficult for her to come in. She is 300 miles away at this time.

JUDGE WELLES: All right, the record does so show.

Q. (By Mr. Appel) On September 20, 1973 did you go to work in the morning? A. No.

Q. What time did you get there that day? A. About 1:30.

Q. Did you go back to work after September 20th? A. No.

Q. Did you picket at all? A. Yes.

Q. Did you picket Dee Knitting Mills? A. Yes.

Q. How long did you picket, do you know? A. I guess a couple of weeks.

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565 CROSS EXAMINATION

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569 Q. On September 20th what time did you report for work?

A. Around 1:30.

Q. What did you see when you got there? A. I saw all the ladies that wanted the union outside picketing.

Q. Did any of them have a conversation with you? A. Yes, they told me what had happened in the morning.

Q. Did you have any conversation when you came back with either Vincent or Charles DeBartolo? A. No.

570 Q. Did you ever hear either Charles or Vincent DeBartolo tell you you were fired? A. No.

Q. Was Marie Foth with you? A. Yes.

Q. When you came that day? A. Yes.

Q. Did she substantially talk to the same people that you did? A. Yes.

Q. Did at any time she meet on that day or talk to either Vincent or Charles DeBartolo? A. Not as far as I know.

Q. And did she picket also? A. Yes.

Q. Did you picket that day? A. Yes.

Q. Did you picket the next day? A. Yes.

Q. All day? A. After school.

Q. So that you didn't arrive until 1:30 or 2 o'clock on the days that you picketed? A. Yes.

571 Q. Are your hours at school now the same as they were on the 20th of September? A. Yes.

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572 REDIRECT EXAMINATION

Q. (By Mr. Appel) Did you give Marie Foth a card on the same day or another day that Barbara gave you the card? A. I'm almost positive it was the same day.

Q. Did she sign the card on the same day or was it on another day that you gave her the card? A. I'm not sure. I don't think it was the same day I gave it to her because I'm pretty sure she took it home. She wanted to think about it.

Q. When did she give it back? When did you see her sign it?

A. The date that is on the card.

Q. Did you fill in any of the card that has Marie Foth's signature?

A. No. I filled in the address. Otherwise she filled in everything else, the address of Dee Knitting Mills.

Q. 1650 New Highway, Farmingdale? A. Yes.

Q. If I told you the two cards, yours and hers have the same date on it would that refresh your recollection as to when Marie signed it? A. I really can't remember dates.

Q. Was Marie still working at Dee Knitting Mills when she signed the

573 card? A. Yes.

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576 ROSETTA LYONS

was called as a witness and, having been first duly sworn, was examined and

577 testified as follows:

JUDGE WELLES: Give your name and address to the reporter.

THE WITNESS: Rosetta Lyons, 1210 Minerva Avenue, West Islip.

DIRECT EXAMINATION

Q. (By Mr. Appel) Miss Lyons – is it Miss or Mrs.? A. Mrs.

Q. Mrs. Lyons, did you ever work at Dee Knitting Mills? A. Yes, I did.

Q. When did you begin work there? A. The day after Labor Day. I think it was September 4, 1973.

Q. What was your job at Dee Knitting Mills? A. I worked at the finishing table cutting threads.

Q. What was your rate of pay? A. $2 an hour.

Q. What were your hours of work? A. From 8 to 4:30.

Q. Who hired you? A. Vincent DeBartolo.

Q. When you spoke to him about the job what did you say to him and what did he say to you? A. Actually nothing. I walked in, asked for the job. I told him I had experience as a floorgirl, and he told me to

578 come in the following Tuesday after the holiday.

Q. Is that all that you remember? A. That's all he said.

Q. What were your hours when you worked? A. 8 to 4:30.

Q. Prior to this time were you ever a member of any union?

A. Yes, I was.

Q. What union was that? A. The ILGWU, Local 107.

Q. Were you a member at the time you went to work? A. Well, I hadn't paid my dues in a couple of months but yes, I guess I was.

Q. Which table did you work at? A. At the finishing table.

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581 Q. (By Mr. Appel) Mrs. Lyons, I show you General Counsel's Exhibit 3 which is in evidence.

Did you ever see that or one like it before? A. Yes, I have.

Q. Did anyone ever give you one? A. Yes.

Q. Who gave it to you? A. Mary.

Q. Excuse me? A. Mary Ruggiero.

582 Q. Where were you when she gave it to you? A. I was at a meeting, Thompson Station, Brentwood.

Q. Do you remember the date of that meeting? A. The 19th when I got that.

Q. What month? A. September 19th.

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585 Q. Do you recall whether you went to work on September 20, 1973? A. Well, we punched in to go to work that morning.

Q. What time did you get there? A. I got to work about five minutes to 8. I punched in and went over to my table and we were talking and Charlie happened to be there.

He mentioned he had taken his nasty pills that morning and we better shape up.

Q. Who said that? A. Charlie the foreman.

Q. Then what happened after that? A. Mary, Ed and a committee that we had picked at a meeting went into the office to gain recognition for our Local 107 to represent the girls in the shop.

They were in there a very short time and I saw the girls come out and somebody said, "Put your buttons on, girls".

Q. Do you remember who said that? A. No, I don't.

Q. Did you have your button with you? A. Yes, I did.

586 Q. What did you do? A. And I put it on and a matter of seconds Mr. DeBartolo, Charlie and Vinnie and Mr. Lipsenthal came charging out of the office, "Everybody with buttons get out."

Q. Who said that? A. Charlie, Charlie, Vinnie, Charlie and Bob, Vinnie. I didn't hear Vinnie say it.

Q. Did you say anything at that time? A. Yes, I said to Charlie, "Me too?"

He says, "Get out, you don't work here any more."

Q. Were you wearing your button at that time? A. Yes, I was.

Q. Did you start to go out? A. Yes, I did.

Q. Did you hear anything then? A. Yes, Mr. Lipsenthal says, "When they go out shut the door and watch it".

Q. Do you know who he was talking to? A. No, I don't.

Q. After you got outside the shop what did you do? A. Well, we proceeded to go into the parking lot. We were standing on the grass gathering up and talking to Mr. Benguet and Mary and Mr. Lipsenthal came flying out after us, told us to get off the property, get off the grass, get out

587 on the gutter where we belonged.

Q. Then what did you do? A. Well, we proceeded to go to the union office from there and we found out we had unfair labor practices there.

They tried to prevent us from having a union represent us, the one that we wanted and they fired us.

Q. Who mentioned that? A. Pardon me?

Q. Who mentioned what you just said? A. Well, we were told that at the office.

Q. Who told you that? A. Mr. Benguet.

Q. After that did you take part in any picketing? A. Yes, I did. The next day we did picket.

Q. On Friday September 21st when you were picketing did there come a

time when a car hit you? A. Yes.

Q. Do you remember what time that was? A. About between 12 and 1 in the afternoon.

Q. Can you explain exactly where you were, what you were doing, who was there and then what happened? A. Well, we were picketing in a circle.

One of the girls had to go back for my sandwich, they forgot it. Her name was Vera and we were walking around and I was facing 110 I guess that is the street opposite New Highway and heard a horn.

588 I turned around and I was walking. It started honking up the block but I didn't know who it was.

Q. Did you see what kind of car it was? A. Yes, it was either a dark brown or a black Station Wagon so I had a cup of coffee in my hand and I saw the girls moving to the side and I was following them but I got towards the center of the pavement and the car turned and came right into me.

He wouldn't stop.

Q. Do you have any idea how fast it was going? Do you have any recollection of that? A. I wouldn't. Very hard for me to judge. I really don't know, it happened so fast.

Q. Were any of the pickets pounding on the car or hitting the car when it came in? A. I have no idea. As far as I saw, no.

Q. Did you do anything like that? A. No, I just put my hands out.

Q. How far was the car from you when you put your hands out?

A. He was right in front of me.

Q. What happened after you put your hands out? A. Well, the car struck me in the stomach and I guess I just pushed myself foward on the car trying to climb on the hood because he was moving, he didn't stop.

589 I tried to get out of the way. I tried to get over to my right to get over to the side and he accelerated the car and he threw me.

Q. Do you remember anything after that? A. No, I don't. That is once I hit the pavement I went out. I woke up in Brunswick Hospital.

Q. Did you see the driver? A. No, I didn't.

Q. When you were picketing were you carrying a sign? A. Yes, I was wearing a sign.

Q. Do you remember what it said? A. On strike, unfair labor practice.

Q. Did you ever block anyone from going into the driveway?

A. Not physically.

Q. Did you ever see anybody block the driveway? A. No. As a matter of fact people were most cooperative all day long until that incident.

MR. BOGUT: Repeat that answer, I didn't hear it.

THE WITNESS: Most people that tried to get into the parking lot were most cooperative. They stopped the car and asked us what we were doing there.

Q. Did you talk to them? A. We explained the situation, yes.

590 Q. What did you say? A. We told them we were on strike for unfair labor practices at Dee Mills.

Q. Do you know if the car was blowing the horn? A. Yes, it was, continuously.

Q. Did you say anything when the car came towards you? A. I remember saying stop or he is not going to stop, something with the word stop. I don't know exactly, I don't remember.

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CROSS EXAMINATION

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592 Q. How did you learn that perhaps there was some employment opportunity at the Dee Mills? A. Well, I didn't particularly care for the work I was doing and I asked Mary if she knew of anything that was available or

they were hiring anywhere and she told me about it.

Q. When did she tell you, the Friday that you went there? A. No, I had mentioned it quite some time before and she had come to the shop to collect dues one afternoon and she told me about it.

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595 Q. That isn't what I asked you. I asked you what were you told at the meeting as to when you should or shouldn't button up? A. When the girls came out I heard.

Q. Madam – A. To where –

Q. I'm asking about the meeting, your Honor, not the following day.

A. At the meeting?

Q. Yes, what were you told to do? A. To wear the button in the morning.

Q. And you just testified a moment ago if necessary or required. When were you told it would be necessary or required to wear that button?

A. They didn't say exactly. When the girls came out somebody said "Button up" and we put our buttons on. There was no set time when we had to put them on.

Q. Mrs. Lyons, about three questions back you testified when you got that button at the union meeting on the 19th in the evening you were told to take it and if it was required you would put it on the next day in the shop.

596 A. If somebody said put it on we would have put it on.

Q. Who was supposed to give that signal? A. Nobody in particular.

Q. If there was nobody designated then I would assume anybody could have given that signal. A. That's right, anybody.

Q. Then what was the signal predicated on? A. If they said put the buttons on, put it on.

Q. If who said? A. Any of the girls.

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605 Q. How long were you disabled by this accident? A. About four weeks.

Q. Did you go to the doctor? A. Yes, I did.

Q. Was that your family doctor? A. I forget what they call him. I went to a specialist in Port Jefferson.

Q. What is his name? A. Dr. Baguio.

Q. How do you spell that? A. B-a-g-u-i-o.

Q. B-a-g-u-i-o? A. Yes.

Q. How did you get his name?

MR. APPEL: Objection.

JUDGE WELLES: Overruled.

A. How did I get the doctor's name?

606 Q. Yes. A. Am I supposed to answer that?

JUDGE WELLES: Yes.

A. Oh, through my husband. He has a friend that works for him.

Q. Did your lawyer give you the doctor's name? A. No, he did not.

Q. Did there come a time when you filed a criminal complaint in the District Court of Suffolk County? A. Yes.

Q. At that time did you execute an affidavit for the district attorney?

A. Do you mean did I sign something before a judge?

Q. Yes. A. Yes, I did.

Q. Do you know what the disposition of that case has been? A. No, I don't.

Q. Did you ever go to court and testify? A. No, I didn't.

Q. Are you aware that that case has been dismissed? A. No, I'm not.

Q. When did you find out who was driving the car? A. After I was – when I came to in the hospital.

Q. Who told you? A. One of the girls told me. I think it was Angela. I'm not sure.

607 Q. Are you presently under the treatment of Dr. Baguio? A. Well, I had been going up to him until recently. I have stopped for a while now.

Q. When was the last time you went to him? A. About a month or so ago.

Q. Did you ever wear a neck brace? A. For a while.

Q. Did you get it from Dr. Baguio? A. Yes.

Q. Is his specialty orthopedics? A. Yes, I think it is.

Q. Is there presently a lawsuit pending between you and Salvatore DeBartolo? A. Yes.

* * * * *

610 16 Court Street
Brooklyn, New York
January 24, 1974

* * * * *

612 MARY RUGGIERO

called as a witness, having been first duly sworn in by Judge Wells, took the stand and testified as follows:

JUDGE WELLES: Give your name and address to the Reporter.

THE WITNESS: Mary Ruggiero, 2 Shore Lane, Bayshore.

DIRECT EXAMINATION

Q. (By Mr. Appell) Miss Ruggiero, do you want to spell your name for the Reporter? A. R-u-g-g-i-e-r-o.

Q. What is your occupation, Miss Ruggiero? A. I'm a business agent.

Q. With which union? A. Local 107, ILGWU.

Q. How long have you served in that capacity? A. Six years.

Q. Did you take part in any organizing on behalf of the ILGWU with

respect to employees of Dee Knitting Mills? A. Yes.

Q. Were you involved in signing up any employees? A. Yes.

613 Q. Did you ever take part in any union meetings with employees?

A. Yes.

Q. Do you remember the dates of those meetings? A. Well, we had a meeting with two workers from Dee the end of August, I believe it was August 27th.

Q. Did you take part in any meetings after that? A. Yes.

Q. Do you remember the dates of those meetings? A. I made a mistake, August 14th was the meeting with the two girls.

Q. When was the next meeting? A. August 27th.

Q. Where did that take place? A. In the union office.

Q. To your knowledge did anyone sign cards at that time? A. Yes.

Q. Did you speak at that meeting? A. Yes, I did.

Q. What did you say? A. Oh, I explained union benefits and what the union was all about.

Q. When was the next meeting? A. Around September 12th.

614 Q. Where was that meeting held? A. At Thompson's Station in Brentwood.

Q. Is that a restaurant or what? A. Yes, restaurant.

Q. How many people were there, do you recall? A. Oh, I'd say about 18.

Q. Did anyone sign cards at that meeting? A. Yes, they did.

Q. Did you talk at that meeting? A. Mr. Benyai was at that meeting.

Q. What did Mr. Benyai say to the best of your recollection?

A. He went over union benefits, what kind of conditions we had in similar factories to where the Dee Knitting people were.

Q. Did there come a time when there was another meeting? A. Yes.

Q. Do you remember the date of that meeting? A. A week later.

Q. What date was that? A. I believe it was the 19th.

Q. Were you present at that meeting? A. Yes, I was.

Q. Where was it held? A. Same place, Thompson's Station.

615 Q. Who spoke at that meeting? A. Mr. Benyai.

Q. What did he say? A. Well, he went over the same thing because there were different people then, new people at that meeting.

Q. Did anyone sign cards that night? A. Yes, they did.

Q. About how many employees were there? A. Oh, I'd say about 20, 21.

Q. Did there come a time in any of these meetings when employees were distributed a list of benefits, anything like that? A. Yes, major medical and Blue Cross we explained to them.

We showed them a pamphlet.

Q. I show you General Counsel's Exhibit 3 which is in evidence.

Did there come a time when buttons such as General Counsel's Exhibit 3 were distributed to employees? A. Yes.

Q. Of Dee Knitting Mills? A. Yes.

Q. Do you remember when that was? A. September 19th meeting.

Q. Do you know who gave them out? A. I gave some out, Mr.

616 Benyai gave some out.

Q. Did you say anything about these buttons at that meeting?

A. Yes, sir.

Q. What did you say? A. The people were told to wear these buttons the next day.

MR. APPELL: I ask that the Reporter mark this card as General Counsel's 27 for identification.

(Whereupon, above referred to document was received and marked General Counsel's Exhibit 27 for identification.)

Q. Miss Ruggiero, I show you General Counsel's Exhibit 27 for identification.

Have you ever seen that card before? A. Yes, I have.

Q. Do you know whose handwriting that is on that card? A. Yes.

Q. Whose is that? A. Martha Jean, the one that signed it.

Q. Who is Martha Jean? A. She is an employee of Dee Knitting Mills.

Q. Who gave her that card, to your knowledge? A. I did.

Q. Was anyone else present when you did that? A. Yes.

617 Q. Who? A. Barbara Laufman and Mary Calligaris.

Q. Who is Mary Calligaris? A. She is an organizer for the union.

Q. Where did you give that card to Miss Jean? A. At her home.

Q. Do you remember what time that was? A. In the evening, around 7, 8:00 o'clock I believe.

Q. What date was that? A. September the 18th.

Q. When you gave her the card what did you say and what did the other union official say, if anything, and what did Martha Jean say?

A. When I gave her the card I asked her to read it, make sure that she understood it.

I explained to her that we were representing her for collective bargaining and she read it, she signed it.

Q. Did she say anything? A. No. I asked her if she understood the card and she said yes, she did.

Q. How did you come to be at her house that night? A. We went to visit her because we wanted her to sign an authorization card.

Q. Did you have a prior appointment with her? A. No, no.

618 Q. Was anyone from her family home? A. Yes, her husband.

Q. Was he present during this time? A. Yes, he was.

Q. Did he say anything? A. Oh, we discussed the union. We

discussed union benefits.

He belonged to a union, I believe.

Q. Did you see Martha Jean fill out that card? A. Yes, I did.

Q. Did you see her sign it? A. Yes, I did.

Q. Is there any handwriting on there that is other than hers to your knowledge? A. No.

Q. What did she do with the card after she signed it? A. Handed it back to me.

MR. APPELL: I offer General Counsel's Exhibit 27 into evidence.

MR. BOGUT: Your Honor, continuing objection.

JUDGE WELLES: All right, it is received in evidence.

(General Counsel's Exhibit 27 for identification, received in evidence.)

Q. Did there come a time when the committee was chosen? A. Yes.

619 Q. When was that? A. It was the last meeting, September 19th.

Q. Can you explain how that committee was chosen? A. Well, it was explained to the people by Mr. Benyai that we were going to go into the company the next morning and ask for recognition.

He asked them to get together amongst themselves and get a committee together amongst the workers.

Q. Was such a committee then chosen? A. Yes.

Q. Do you remember who was on that committee? A. Freda Tarsky, Gloria Maurice, Ethel Fitzpatrick and Betty Beneuenuto.

Q. Do you know whether each one represented a partiuclar group or where they selected at random? A. I think partly at random and partly they represented a specific group.

Q. On September 20, 1973, do you remember that date? A. September 20th?

Q. Yes. A. Yes.

Q. What happened on that morning? A. Mr. Benyai and I went to Dee Knitting Mills and we met the committee in the parking lot in the rear of the building.

620 Q. What time was that? A. About 7:45.

Q. Was there any discussion at that time? A. No, we just said we were going to go in.

The girls were wearing buttons.

Q. Then what happened? A. We walked into the back of the factory and the committee punched their cards.

Q. Did you see that? A. Yes.

Q. Then what happened? A. And we walked through the factory and the committee told us where the office was and Mr. Benyai knocked on the door, the office door.

Q. Then what happened? A. Someone said, "Come in".

Q. Do you know who said, "come in"? A. No, I don't.

Q. Did you go in? A. Yes, we did.

Q. Then what happened? A. And the three employers were there.

Q. Who were there? A. The DeBartolo brothers and Bob Lipsenthal.

Q. Anyone else present besides them and the union representatives and

621 the committee? A. Yes, I believe Sal Tramuta. I don't know if I have the name correct.

Q. Do you know who he is? A. A supervisor of the knitters, I believe.

Q. Who spoke for the union officials? A. Mr. Benyai.

Q. What did Mr. Benyai say and what the company officials say? And where you can indicate which company official said what? A. All right.

Mr. Benyai handed his card I believe to Vinnie.

They are twins so it is very hard to distinguish them.

One of the DeBartolo brothers he handed his card to, and he introduced

himself.

He said he was here to ask for recognition with a committee of the workers because we had a majority of the workers signed.

He was willing to prove it to an impartial third party.

One of the DeBartolo brothers said he had no time to talk to him so Mr. Benyai said well, you know, he would like to talk to him, naturally.

So then he got a little excited because I think they were taken by surprise and they noticed the committee and they asked them, you know, what
622 the girls were doing there.

So we explained to them that it was a committee of the workers.

So I believe it was Charlie who said "You know, get out, you don't belong here, you are fired", and he got very excited.

Mr. Benyai tried to calm him down.

Q. What did he say, do you remember? A. You know, "Just take it easy, take it easy" and they got progressively more excited.

Charlie DeBartolo said, "The place is closed."

Mr. Benyai said, "What do you mean by that?"

So he said, "Well, I'm the boss of the place, I can close it if I want, can't I?"

Then Bob Lipsenthal ran over or crossed the room to Freda Trasky and he pointed at her literally and said "You are the one", he says, "You speak with a forked tongue."

He said, "You are the one that never wanted the union. You are a liar. Get out, you are fired."

And the girls just stood there because they didn't know what to do, and I remember Ethel kept saying, I believe, I have to get my pocketbook, I have to get my pocketbook."

That is Ethel Fitzpatrick.

So finally we went around and around and one word led to another.

623 They took Mr. Benyai by the arm and they tried to, you know, physically throw him out.

Bob Lipsenthal said, "I know people in New York," he says, "They will take care of you".

And then he said while he was talking to Freda, he says, "You are all fired, get out".

And we left. Oh, he said, "You girls go through the back, get out, you are fired" and he pointed to the back door which led back into the factory.

"And you", meaning Benyai and I, he said, "Get out through the front".

Q. Did Benyai say anything else that you recall? A. No.

Q. Do you recall him saying anything to the committee? A. Yes, he said, "Girls, go back to work."

You know, he was trying to calm everybody down.

So we saw the girls leave through the door back into the factory and we left through the front door.

Q. Did you stay around or did you leave? A. No, we walked around.

I believe it is Sherwood Avenue. We met one of the girls who works in the factory, her husband, Mr. Santingo.

We started to talk to him but before we could get into a conversation we saw about 20 people come out from the back of Dee Knitting Mills wearing buttons.

624 Q. Did you talk to them? A. Yes.

They came over to us. Mr. Benyai started to talk to them.

We were standing on the edge of the curb.

With that Bob Lipsenthal came out, "Get off my property", he was screaming, and Mr. Benyai said to him, "It is not your property."

He says, "Well, get off, the girls don't work here any more, they don't belong here".

Q. Do you recall Lipsenthal saying anything else at that time?

A. Yes, he told Mr. Benyai, "Why don't you come back inside?"

He says, "I will take care of you".

Q. Did he say anything else? A. He said, "I know people in New York that will take care of you".

So Mr. Benyai says, "Look, go inside," he says, "You have broken enough laws," he said, "You better keep quiet."

Q. Did Mr. Lipsenthal say anything else that you recall? A. Not at that time.

Q. Do you recall him telling employees where they should go?

A. No. I heard him say, "You are fired, you don't belong here, get into
625 the gutter, get off my property."

Q. Do you recall what the employees said to you when they came out, if anything? A. They had been fired.

Q. Do you remember who said that? A. All of them said it, that the three employers, after we went out through the front door, the three employers had come into the factory and they had told the girls, "anybody wearing a button, get out, you are fired".

MR. BOGUT: Objection, your Honor, it is hearsay.

JUDGE WELLES: This is what the girls told you, you say?

THE WITNESS: Yes.

JUDGE WELLES: It doesn't prove the fact, of course.

Q. What did you do after this happened? A. Well, at that time Bob Lipsenthal went back into the factory and slammed the door, and we spoke for a few minutes, and then we went back to the union office.

Q. Did you take part in any discussion there? A. Yes.

Q. What did you say? And what did everyone say who was present?

A. Well, we decided being the girls were fired that we would picket for unfair labor practices.

Q. Who made that statement? A. Everybody agreed, I, Barbara
626 Laufman, Benyai wasn't present.
He had gone to New York.

Q. Did you picket after that? A. Yes, we went back.

Q. How many times have you been at the picket line? A. I would say it was there that afternoon and I may have been back twice since.

Q. Did you ever observe any kind of violence on the picket line at anytime? A. No, I didn't.

Q. Did you hear any threats of any kind? A. No.

Q. Did you ever authorize employees to make any threats to anybody or engage in any violence? A. No.

Q. Did you return to the shop on September 20th? A. Yes, I did.

Q. Anyone talk to you at that time? A. Yes.

Q. Who was that? A. Three employers came out plus Charles Reina, the foreman.

Q. Who talked to you? A. All three were talking.

627 Q. What did they say to you? A. They told myself and Gaspar Sciacca, an organizer from Local 107 that they would like Mr. Benyai to come down to speak to them.

Q. Did you say anything? A. Yes, we told them that Mr. Benyai wouldn't be down.

If they wished to speak to him they should call the office, Local 107 and make an appointment.

Q. Did there come a time when you helped arrange such a meeting after that? A. Well, Mr. Benyai contacted me later in the day that there was a meeting, and off the record meeting arranged for the next morning around 11:00 o'clock.

Q. Did you notify anyone about that? A. Yes, I did.

Q. Who did you notify? A. I got in touch with the committee.

Q. Did you take part in such a meeting? A. Yes, I did.

Q. What day was that? A. Friday, September the 21st.

Q. What time did that meeting start? A. Around 11:00 o'clock.

Q. In the morning or the evening? A. In the morning.

628 Q. Where did it take place? A. At the union office.

Q. About how long did it last, would you say? A. I would say roughly about an hour, 45 minutes.

Q. Who was present at that meeting for the union and who was present for the employers? A. Mr. Benyai, myself, the four committee members, the two DeBartolo brothers and Bob Lipsenthal, and the young lady named Ellen, a secretary, I believe. I don't know her last name.

Q. What did Mr. Benyai and you say and the committee, if anything, and what did the employer representatives and the secretary say? A. Well, the three employers and their secretary walked in and the committee was there.

They immediately objected to the committee being present.

Q. Who is they? A. The employers, all three.

Q. Do you remember which one spoke of the three? A. Bob Lipsenthal and I believe Vinnie.

Q. What did they say? A. They said they wanted to speak to us alone and they didn't want the committee there, didn't see any point in having them there.

629 Q. Was any response made to that? A. Yes, Mr. Benyai said anything that we had to discuss was about Dee Knitting Mills and the committee should be present to hear it.

Q. Then what happened? A. We all sat down and I believe Vinie DeBartolo said, "Well, what do you want?"

So Mr. Benyai said well, he says, "You called me for an appointment, what do you want?"

Then we went around and around on who called who.

So finally Mr. Benyai said, "Look, it doesn't really matter. I'm glad to see you."

He said, "I want you to understand this is an off the record meeting" and he said, "The first thing I want to explain to you is that the unfair labor practice must be cleared up first."

So one of the employers asked, "What does that mean?"

He said, "Well, that means reinstatment of the people that were fired two days back pay plus a posting of the notice".

Then they asked him what the notice meant, he said, "Well, your attorney would get in touch with our attorney and it would all be explained and taken care of legally."

So they sort of didn't understand what we were talking about.

630 I believe it was Charlie said, "I'm not an unfair employer, I'm very good to my people."

So Benyai again explained what he meant. He said, "We can't get into any type of negotiations until all this is cleared up."

We went around and around on that for a while.

So finally Charlie, Vinnie said, no, Vinnie DeBartolo said, "Well", he says, "All right, what happens if we agree to this?"

He says, "What will happen Monday?"

So again, I am repeating myself, Mr. Benyai said, "Well, can't promise you anything but this has to be taken care of legally."

Then Charlie says, "Well", he says, "We are a poor – " you know, "We just moved out, we are a new company," he says, "We don't have much money."

He says, "If you want to see our books I will show you" and he says, "I don't even have $10 in my pocket" and etc.

So Mr. Benyai said, "Look, we understand that, we have many companies out here and", etc. and he said, "One thing I have to keep repeating to

you, the unfair labor practices must be straightened out first."

Then the young lady Ellen interrupted and Mr. Benyai cut her short. He said, "You are here to observe" and she was taking notes, he said, "One
631 thing, when you take your notes, please put down this is an off the record meeting, plus the fact that the unfair labor practices must be settled before anything else is taken care of."

So then Charlie says, "Well", he says, "We don't have much money", he says, "And if I don't get my way here", he says, "We will close the doors."

And again we went around and around, and finally Bob Lispenthal said, "I think I understand", he says, "the unfair labor practices have to be taken care of."

He said, "I think we better get an attorney", he says, "And he will be in touch with you, Mr. Benyai."

So Benyai said, "Look, I will be available for the rest of the day, Saturday or Sunday if you need me."

Then they left.

Q. Do you recall anything else that was discussed at that meeting?

A. No.

Q. Do you recall any mention of holidays? A. Oh yes, Vinnie Bartolo said well he says, "What about holidays?"

He says, "We give five holidays".

So Mr. Benyai said, "Well, we give eight," he says, "That could be worked out."

But he said, "Again, I repeat, the unfair labor practices I can't really dis-
632 cuss anything with you until that is taken care of."

Q. Do you recall anything else that Benyai said? A. No.

Q. Do you recall Mr. Benyai saying anything about the company having to put a lock on the door or closing up? A. No.

Charlie DeBartolo said, "If I don't get my way we will put a lock on the

door."

Q. Was any arrangement made for a further meeting? A. Well, yes as I said, Bob Lipsenthal, they would get in touch with their attorney and he would be in touch with us at a later date.

Q. Did you personally take part in any further meetings between the company representatives and the union? A. Yes, I did.

Q. When was that? A. Oh, around September the 26th Mr. Benyai called me into his office and he told me that an attorney from Huntington, James Weber has been in touch with him through an attorney Mr. Koffler, he had gotten in touch with Koffler and Kofflet had gotten in touch with Ed Benyai and that Mr. Benyai had told Mr. Koffler to go back to Weber and speak to Max Zimney, our attorney, in New York, and they had arranged an off the record meeting.

633 Q. Did you take part in that meeting? A. Yes, I did.

Q. Do you remember what happened? A. Yes, we went to Thompson's Station for lunch.

Q. Who did the talking? A. Well, when we walked in and Mr. Koffler was there and Mr. Weber and Ed and I.

We sat down and Ed immediately told them, Ed Benyai that this was an off the record meeting, and Mr. Weber said yes.

Mr. Zimney had spoken to him already and established that fact.

Mr. Benyai again told him that before we could do anything the unfair labor practices had to be taken care of first before anything else was discussed.

So Mr. Weber said yes, he understood that, and he said, "This could be arranged", he said, "Would you treat the – take it easy on the company", he says, "because they are a new company, they just moved out, they have a lot of problems."

Mr. Benyai repeated what he said to the employers, he said, "Of course," he says, "We have people move out here all the time", he says, "And we

understand that a new company has problems", but he says, "First and foremost", he says, "Before we can even go into anything like that" he says, "the
634 unfair labor practices."

So Mr. Weber asked him to indicate what it was.

Two days back pay, etc., with posting of the notice.

Mr. Benyai said, "But, of course, the longer the strike goes on the more back pay is racking up."

So Weber said, yes. He understood this and he would be in touch with his clients and he would get back to Mr. Benyai.

That was it.

Q. Did you take part in any further meetings? A. No, I didn't.

* * * * *

CROSS EXAMINATION

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640 Q. Prior to that meeting did you send any type of communication to Dee Knitting? A. No.

Q. To your knowledge did Mr. Benyai or anyone in 107's behalf send any? A. No.

* * * * *

651 Q. Was there any discussion at that time, at that meeting, with respect to recognition of 107? A. No, no. The only thing that was discussed as far as recognition was concerned, that we could not sit down to negotiate a contract until the unfair labor practices were resolved.

Q. Did he ask at that meeting that Dee Knitting recognize 107 as bargaining agent for their employees? A. No, not until all the unfair labor practices were resolved.

* * * * *

654 ED BENYAI

called as a witness, having been first duly sworn in by Judge Welles, was

examined and testified as follows:

JUDGE WELLES: Give your name and address to the Reporter?

THE WITNESS: Ed Benyai, 2 Shore Lane, Bayshore, Long Island.

DIRECT EXAMINATION

Q. (By Mr. Appell) Mr. Benyai, what is your position? A. I'm manager of Local 107 International Ladies Garment Workers Union.

Q. How long have you served in that capacity? A. 12 or 13 years.

Q. Mr. Benyai, did you ever take part in any meetings with any employees of Dee Knitting Mills? A. Yes, I did.

Q. Do you remember the dates of those meetings? A. September
655 the 12th and September 19th, 1973.

Q. Where were those meetings held? A. At Thompson's Station Restaurant in Brentwood, Long Island.

Q. How many employees of Dee Knitting were present at each? A. I think the first meeting there was about 17 or 18, the second meeting there was about 20.

Q. Did you speak at the first one on September 12th? A. Yes.

Q. Do you remember what you said? A. Well, generally I explained the union benefits, union conditions, answered any questions, dealt with fringe benefits.

Discussing signing authorization cards, what it meant, and our general organizational efforts at Dee Knitting Mills.

Q. Anyone sign cards at that meeting, do you know? A. I don't know.

Q. Did you speak at the September 19th meeting? A. Yes, I did.

Q. What did you say at that time? A. Well, I went over pretty much the same ground as I did on September the 12th with some people there at that time who weren't at the first meeting.

Then we decided that since we had the majority of the people of Dee

656 Knitting Mills signed up that we would go the following morning and ask for recognition.

We distributed union buttons and we asked the people to decide among themselves for a committee.

Four people were elected.

We decided to meet with the committee the following morning in the parking lot before work and go in that morning and ask for recognition.

Q. Did there come a time when you did go to the company?

A. Yes.

Q. When was that? A. The next day, the 20th.

Mary Ruggiero and I met the committee in the parking lot.

It was about a quarter of eight.

The committee put on their buttons and we went into the back of the factory.

The committee members punched in. Then we walked up through the factory to the front of the factory to where the people told us where the office door was.

I was in front, I knocked on the door. Someone said, "Come in" and we all went in.

We saw the DeBartolos brothers there.

Q. Did you know them at the time?

Had you ever seen them? A. Well, I hadn't seen them, but the

657 workers had described them, what they looked like.

Q. Are either of them present here today? A. Yes, if I remember correctly I think that is Vincent, I'm not sure.

Then the other gentleman tha was there was Mr. Lipsenthal.

Q. Is he present here today? A. Yes, and I think there was one other person there.

Q. Do you know who that was? A. No, I don't.

Q. Did you speak at that time? A. Yes, I did.

Q. What did you say and what did the company officials say? A. I went over, I believe, to Vinnie and I introduced myself and I gave him my card, my business card.

Then I told all of them that Local 107 ILGWU represented the majority of the workers of Dee Knitting Mills, that we would be willing to prove this through a neutral third party, and that we would like to make an appointment at a mutually convenient time and sit down and negotiate an agreement.

Q. Was there any response? A. Yes.

658 Q. What was that? A. I believe it was Charles DeBartolo who said that he doesn't have any time to meet and what are these people doing here.

I explained that they were members of the committee representing the workers of the shop and that we were here for recognition.

I think at that point Vinie tried to give me back my card.

I said, "No, I think you better keep it."

Then one started hollering, the other shouted and the third one screamed.

Q. Can you explain exactly what was said? A. One said he doesn't have any time to meet, "Get out".

Q. Do you know who that was who said that? A. I believe it was Charlie.

Q. What else? A. Then another one said, "What do you mean barging in here without an appointment!"

Q. Who said that? A. I don't remember which one.

Q. What else was said? A. I told them "Look, I knocked, someone said 'come in' and that is why I walked in."

659 Then another one said, "These people don't belong here, they are all fired, get out", and they referred to the committee.

Another one said he is going to call the cops.

Then another one said he is going to close the shop as of this moment.

Q. Who said that? A. One of the DeBartolos.

Then Lipsenthal starting saying, "You get out of the shop", we want you out of here right away and go out the frontway and the workers should go out the back way."

Then he, Lipsenthal, ran over to the committee and he pointed his finger right at Freda.

He says, "You, you talk with a forked tongue", he says, "you told me you don't like unions. Get out, you are fired."

So I tried to calm them a bit, I said, "You know, you are breaking laws, there are Federal Labor Laws which protect workers and the right to organize. You better take it easy, better listen to what I have to say, don't get carried away."

I told the committee, I said, "Go back into the shop and go to work."

The Lipsenthal grabbed me and I said, "Look, keep your hands to yourself." I said, "I'm leaving."

660 He said, "Look, I know you, I got people in New York, they will take care of you", and Mary and I then went out the front door.

Then we started walking around on the side of the building and I think that is Sherwood Avenue and we bumped into Ella Santingo's husband.

He had been just dropped off to work and he circled around and he was right in the area.

He asked, he said, how did things go and we started talking to him when from the back of the factory Mary and I, we saw all of the people coming out.

They were wearing buttons.

Q. About how many people did you see? A. Twenty, so when we saw the people coming out we started walking over towards them.

Q. Anyone talk to you at that time? A. We said, what happened?

"Oh, we all got fired."

"Who fired you?"

"Well, the bosses."

MR. BOGUT: Objection, your Honor, it is hearsay.

JUDGE WELLES: Conversation, overruled.

A. (Continuing) – Then they said that, "The bosses fired us because when the committee came back in to the shop the bosses came out, all three of them came out and said 'Everyone wearing a button, get out'".

661 So we asked, "Well, who said this?"

And so some said that Vinnie said this and some said that Charles said this and some said that Lipsenthal said that.

Q. What happened then? A. Then Lipsenthal came out.

Q. Did he talk to you? A. He was shouting. He was shouting to everybody.

Q. What did he say? A. He says, "Get out of here, get off my property, this is private property. You no longer work here, get in the gutter where you belong."

Q. Did he say anything else at that time, do you recall? A. Yes, then I told him, I said, "You know, you better get back inside, you've broken quite a few laws as it is, you better get inside and relax."

So he turned to me and said, "Listen, come over here."

I said, "No, I'm not going over there."

"Well, I will have someone take care of you" and he went into the shop and he slammed the door.

Mary and I, we went over to the people and we said, "Look, go to the union hall, I have to go to New York, but I will be in touch and you will go with Mary to the union and we will organize ourselves and set everything up for the rest of the day and the following days."

662 Then that afternoon I was on the telephone with Mary, Mary Ruggiero and she told me that the company had indicated that they would like to meet.

I said, "Fine, I will check it out with our legal department and we will

set up an off the record meeting."

Q. Did you set up such a meeting? A. Yes, the next day it was set, for about 11:00 o'clock.

Q. Before we get to that, did there come a time, to your knowledge, when the union sent a telegram to – A. Yes.

Q. (Continuing) – the company? A. Yes.

Q. When was that? A. That was the 20th, the morning of the 20th.

Q. How do you know that? A. Well, I gave instructions to one of our office girls to have the telegram sent.

Q. When did you give those instructions? A. I believe it was the night before.

I told her that we would be going in for recognition of this company and prepare this telegram and send it the following day.

Q. To your knowledge, was such a telegram sent? A. Yes.

663 MR. APPELL: I call upon counsel for the Respondents to produce at this time any telegram which was received by Respondents from Local 107, ILGWU.

MR. BOGUT: Can I speak with my clients about that?

JUDGE WELLES: Yes.

Off the record.

(Discussion off the record.)

JUDGE WELLES: On the record.

MR. APPELL: Your Honor, may I ask your Honor to direct Respondents at this time to produce a copy of any telegram received from Local 107, ILGWU on or about September 20th, 1973.

JUDGE WELLES: I heard the off the record discussion but do you want to repeat it?

MR. BOGUT: Your Honor, we have no copy or original of any such telegram.

MR. APPELL: Your Honor, could counsel for the Respondents stipulate that such a telegram was received, or could he state for the record his position as to whether it was received.

MR. BOGUT: As to whether what was received?

MR. APPELL: Any telegram, your Honor, that was sent by Local 107 on or about September 20th.

MR. BOGUT: Any telegram?

We will stipulate that a telegram was delivered at about 10:00 o'clock in
664 the morning, but I don't know what telegram.

Evidentally it was from 107, purportedly, from 107.

JUDGE WELLES: All right.

MR. APPELL: Might I ask that the Reporter mark this paper as General Counsel's Exhibit 28 for identification.

(Whereupon, above referred to document was received and marked General Counsel's Exhibit 28 for identification.)

Q. Mr. Banyai, after the union sends a telegram to a given company, what is the normal union practice, if any, concerning confirmation that it was sent?

MR. BOGUT: Objection, your Honor.

JUDGE WELLES: Overruled.

MR. BOGUT: The question should be whether or not it was confirmed in this instance.

JUDGE WELLES: He is leading up to this. He is laying a foundation.

MR. APPELL: That is correct.

A. The procedure is to ask Western Union for a copy of the telegram and to confirm that the telegram was sent.

Q. I show you General Counsel's Exhibit 28 for identification.

Have you ever seen that before? A. Yes.

Q. What is that? A. This is the copy of the telegram that we sent as we received it from Western Union.

665 Q. The date stamp on there is December 27th.

To your knowledge did the union put it there? A. Yes, that is our stamp, that is when we received the confirmation copy.

Q. To your knowledge did the union send any other telegram to Dee Knitting Mills or Dippy Knits or Three D Knitting Mills on September 20th?

A. This is the only one to my knowledge.

MR. APPELL: I offer General Counsel's Exhibit 28 into evidence.

VOIR DIRE EXAMINATION

Q. (By Mr. Bogut) Mr. Benyai, did you personally send this telegram?

A. I personally did not.

Q. Did someone send this purported telegram on your behalf?

A. Yes.

Q. When did you request that such a telegram be sent? A. The night before it was sent.

MR. BOGUT: Your Honor, we object to the introduction of that piece of paper without verification from Western Union that that telegram was sent.

JUDGE WELLES: We have a stipulation that a telegram was received, and based on the testimony of Mr. Benjai I overrule the objection and receive

666 it into evidence.

(General Counsel's 28 for identification was received into evidence.)

JUDGE WELLES: Since the telegram was received the original obviously is either gone or in the possession of Respondent, and you can come up with it and if it disagrees we have a problem, but at the moment I don't think we do.

Q. (By Mr. Appell) You started to testify that a meeting was held. When was this meeting held? A. Oh yes, the following day.

That would be the 21st.

Q. What time was it? A. About 11:00 o'clock, in my office.

Q. Who was present at that time? A. The committee members, the four members of the committee, Mary Ruggiero, the two DeBartolos, Lipsenthal, a young lady from their office.

Q. Do you know her name? A. No, I don't, and myself.

JUDGE WELLES: I'm sorry, this is the September 21st meeting?

MR. APPELL: Yes.

JUDGE WELLES: September 21st?

MR. APPELL: Yes, your Honor.

667 Q. How long did that meeting last?

Do you have any recollection? A. A little less than an hour, I think.

Q. What did you and the union representatives say and what the company officials and Ellen say – strike Ellen, I'm sorry.

What did the company officials and the young lady say?

I apologize. A. When the company first showed up there was a telephone call that had come in for Lipsenthal, so when they came in I told him that there was a phone message for him and he asked me if he could use a phone and I said sure.

I took him and made a phone available.

Then I went into my office and we were setting up the chairs for the committee to come in and Vinnie was there and he said that he wants to talk to me alone without the committee.

I said no, we don't do it that way.

We are going to talk about the shop and they are workers from the shop, they represent the workers, they are a committee and they have a right to be here and they will be here.

Besides the meeting is off the record anyhow.

So then Mr. Lipsenthal came in and everyone sat down and we started the meeting.

668 I asked them, "Well, what are you fellows here for?"

So then one of them said, "Well, you asked us here."

Well, "I didn't exactly ask you here", but then we went around and around.

Finally I said, "Look, I'm glad you are here. Maybe we can straighten the thing out."

"Remember this is an off the record meeting and the first thing that has to be cleared up is the unfair labor practices."

"What do you mean by that? We are not unfair. We treat our people fair."

Q. Who said that? A. One of the DeBartolo brothers.

"Well, you fired people".

Q. Who said that? A. I said that, "You fired people."

"Oh no, we didn't fire people."

This is one of the DeBartolos.

"What do you mean you didn't fire people? You fired them right in front of me. Mary and I were there yesterday morning when you fired them."

"No, we didn't fire them."

Q. Who said that "Mary and I were there"? A. I said.

Q. Then who said, "Who denied that"? A. All of them.

669 Q. Try, Mr. Benyai in your explanation to give the name as best you can as to who said what so the record will reflect that. A. Right.

I said, – well, I explained that there are certain unfair labor practices that had been committed and a discharge of employees is an unfair labor practice, and before we can do anything this unfair labor practice has to be corrected.

So one of the DeBartolos asked what does that mean?

I explained that there are Federal Labor Laws and that when a worker gets fired for a union activity they are entitled to reinstatement and back pay and the posting of a notice.

So then they said, the DeBartolos said, "Well, we didn't fire anybody."

I said, "Let me ask you a question. People get up in the morning, they prepare breakfast, they wash, they dress, they get their children off school, they get in cars, they drive to Dee Knitting Mills.

"They go into Dee Knitting Mills, they punch in and five minutes after eight, 20 or 24 of them come out. Why do you think that took place?"

Well, none of them answered that.

670 I said, "Well, I will tell you what took place because you fired them."

So then Lipsenthal, I think he said, "Well, what can be done? What do you have to do to reinstate these people?"

"Right now it is two days back pay".

Q. Who said that? A. I said that.

So then I think Charlie said, "Well, we are a small company, we are just getting started. We don't have any money, I don't have money to put food on my table. I can't afford two days back pay. You can look at my books."

I said, "I'm sorry, you did discharge people. This must be corrected before we can do anything at all. I know you are a new company. We have many new companies moving out here. We know how to handle the problem, but we must clear up the discharge cases first."

So then one of the DeBartolos asked "What are your demands?"

"We can't get into that."

Q. Who said you can't get into that? A. I said it.

"We can't get into that until the unfair labor practices have been straightened out."

Then I think at that point the young lady who came with the company

671 said something.

I cut her short.

Q. Do you remember what it was? A. No, I don't remember.

I interrupted her. I said, "Look, Miss, I don't know why you are here. You are only here as courtesy" and I noticed that she had a notebook.

I said, "Now, if you are leaving this office to go to an attorney write it down very, very carefully that it was an off the record meeting and the only thing we discussed was the correcting of the unfair labor practices."

I told the company, I said, "I don't think there is any sense in meeting any longer. We are just going round and round."

Lipsenthal said, "Well, I think I understand, we have to correct these unfair labor practices before we can talk contract."

I said, "That is correct."

Lipsenthal asked, "Will you be in the rest of the afternoon?"

I said, "Yes, I will."

He said, "We will get a hold of an attorney and he will be in touch with you."

I said, "Fine, I am willing to meet tonight, Saturday, Sunday, whenever it is. The quicker the better," and they left.

672 Q. Do you recall anything else that the company officials said at this meeting? A. Oh, one of them said, one of the DeBartolos said, "Well, assume that they were fired", referring to the workers, "and we give them two days back pay. What will happen Monday?"

And it was at that point that the young lady tried to say something and I interrupted her.

Q. Do you recall anything else that either of the DeBartolos said at that meeting? A. Oh yes, there was another thing that one of them said. He is not going to sign anything and that he would rather close the shop first rather than sign anything.

Q. Who said that? A. One of the DeBartolos.

Q. Do you remember anything else at that meeting? A. I don't think so.

Q. Did there come a time when you took part again in any meetings with company officials? A. Yes.

Q. Do you remember when that was? A. Yes, the meeting took place with their attorney on the 26th.

Q. Of which month? A. Of September.

673 Q. What time did that take place? A. It was around lunchtime.

Q. Where was the meeting held? A. It was at Thompson's Station Restaurant in Brentwood.

Q. Who was present besides yourself? A. Mary Ruggiero, Al Koffler, who was a local attorney who represents Local 107 in Suffolk County and an attorney by the name of James Weber who represented the company.

Q. What happened at that meeting? A. Mr. Koffler first introduced me to Mr. Weber and I started out by asking Mr. Weber if he understood this was an off the record meeting.

He said yes, that he had met with Mr. Koffler in Mr. Koffler's office and Mr. Koffler has spelled out this procedure very carefully to him.

Then I explained to Mr. Weber that before we could really proceed that the unfair labor practices had to be straightened out, and Mr. Weber replied that Mr. Koffler had spelled that out in great detail in his office also but he just wanted some clarification, and he wanted to meet with me personally.

So we went over that. Then Mr. Weber asked me if we would take it easy on the company, it is a new company.

I said we would. "There are new companies that move out quite fre-

674 quently, we know what the problems are, but the longer it takes to settle the dispute the more difficult it would be."

I was willing to meet at anytime. The next couple of days I wouldn't have been able to meet, it was the holidays, but I told him outside of that

I would be willing to meet at anytime.

Mr. Weber said that he would meet with his clients and get to me.

Q. Did Mr. Weber ever get back to you? A. Well, about 10 days after that Al Koffler called me to say that Weber had contacted him, that he was meeting, that Weber was meeting with his clients within a night or two and that he would then be in touch, but nothing happened and since that time nothing happened.

Q. Did you ever meet with any company officials after that time?

A. No.

Q. Did you ever send a letter to the company, Dee Knitting Mills, sir?

A. Yes, I did.

Q. Do you remember when that was? A. I believe it was a few – one or two days after Rosetta Lyons got hurt on the picket line.

MR. APPELL: At this time I will call upon counsel for the Respondents

675 to produce a letter that was received from Local 107 through Mr. Benyai dated September 21, 1973, or in the alternative to stipulate that a copy which I have is an accurate copy.

MR. BOGUT: Let me see that.

What is your number on that?

MR. APPELL: I will ask the Reporter to mark this copy of such letter as G.C. 29 for identification.

(Whereupon, the above referred to document was received and marked General Counsel's Exhibit 29 for identification.)

MR. BOGUT: That is a copy of a letter that we received.

MR. APPELL: I offer General Counsel's Exhibit 29 into evidence.

JUDGE WELLES: I take it you have no objection?

MR. BOGUT: No.

* * * * *

677 CROSS EXAMINATION

Q. (By Mr. Bogut) Mr. Benyai, do you recall the union meeting that took place on the 19th of September of 1973? A. Yes.

Q. At that meeting did you speak? A. Yes.

Q. What did you say to the persons present with respect to the wearing of the union buttons the following day? A. We gave out union buttons to everyone there plus a few more, and we agreed among ourselves that when the committee would go into the shop and then into the office the committee would be wearing the union buttons and then, when the committee would come back into the shop all the people would put their buttons on.

Q. Was anybody instructed to say "Button up"? A. I don't remember that.

* * * * *

689 Q. Did you indicate to them that until such time as they went along with this alleged unfair labor practice there could be no discussion as far as the contract was concerned? A. Precisely.

* * * * *

700 Q. (By Mr. Bogut) Mr. Banyai, at any time during this period after the 20th of September, did you ever receive a communication from anyone indicating the Employers were willing to reinstate and pay the two-day salary in question, wages or salary? A. I never received such.

Q. You never received any such notification? A. I never received, no.

* * * * *

709 BARBARA LAUFMAN

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

JUDGE WELLES: Give your full name and address to the Reporter.

710 THE WITNESS: Barbara Laufman, 2 Shore Lane, Bay Shore.

It is my business address.

DIRECT EXAMINATIOIN

Q. (By Mr. Appell) Mrs. Laufman, what is your current position?

A. My current position, I'm an organizer for the International Ladies' Garment Workers Union, Local 107.

Q. How long have you served in that capacity? A. Two years.

Q. Did you ever work for Dee Knitting Mills? A. Yes, I have.

Q. When did you begin working there? A. To the best of my recollection I would say it was towards the end of June.

Q. Do you remember what date you applied for work there? A. I started work on a Monday.

I applied either Thursday or Friday before that week.

I would say around the 20th, 21st, somewhere around there.

Q. Do you remember what date you actually started work? A. I think it was June 25th.

Q. What did you do when you went to work there? A. What kind of work I did that day?

Q. Yes. A. I was hired to be an operator when I had gone in

711 the previous week but when I came in to work that day they had no room on the machines, that if I wanted to I could work on the floor.

Q. Did you do that? A. Yes, I did.

Q. What kind of work did you do on the floor? A. I clean sweaters, examined sweaters.

* * * * *

730 Q. Did there come a time when you spoke with Gloria Maurice?

A. Yes, I did.

Q. Do you remember when that was? A. In the shop.

731 I would say it was either coffee break or lunchtime, I'm not definite as to which.

Q. Do you remember what month it was? A. Yes, it was some time near the beginning of August.

Q. Do you remember what you said to her at that time? A. Yes, I asked her if she would be interested in joining a Union.

Q. What did she say? A. She would be interested.

Q. Did there come a time when you met with Gloria Maurice and Ethel Fitzpatrick? A. Yes, there was.

Q. Was anyone else present? A. Mary Ruggiero.

Q. Do you remember when that was? A. It was in August. I would say around the 13th, 14th, somewhere around then.

Q. Did anyone sign a card for the Union at that time? A. Yes, both Gloria Maurice and Ethel Fitzpatrick signed a card.

Q. Did Mary Ruggiero speak at that time? A. Yes, she did.

Q. Do you remember what she said?

JUDGE WELLES: Excuse me, isn't this going to be pretty cumulative?

732 We have had the witnesses themselves.

With the possible exception of the two young girls there might be some testimony you want to bring out there.

MR. APPELL: Very well, your Honor.

JUDGE WELLES: This is very cumulative.

MR. APPELL: I will try to avoid repetition.

Q. (By Mr. Appell) Did there come a time thereafter when you continued organizing employees? A. Yes.

Q. Did you personally sign any employees up? A. Yes.

Q. Were you present at any Union meetings? A. Yes, I was.

I was present at – I was present at three meetings where there were more than six people and several other meetings where there were less than six people.

Q. The meetings where there were more than six, where were they held?

A. First one was held at the Union office near the end of August.

The second one was held at Thompson's Station in Brentwood.

It is a restaurant, in September, and the second one was held – the

733 third one was held at the same restaurant a week later, in September.

MR. APPELL: May I ask that the Reporter mark this card as General Counsel's Exhibit 30 for identification.

(The document above-referred to was marked General Counsel's Exhibit No. 30 for identification.)

Q. (By Mr. Appell) Mrs. Laufman, I show you General Counsel's Exhibit 30 for identification.

Whose handwriting is on this card, if you know? A. Mine.

Q. Is the signature on there yours? A. Yes, sir.

Q. Is the date on there yours? A. Yes.

Q. Do you remember who gave you that card?

Did anyone give it to you? A. No, sir.

Q. Had you had it on you? A. Yes, sir, I did.

Q. Was anyone present when you signed it? A. I imagine there was.

Q. Who was that? A. Mary Ruggiero.

* * * * *

734 Q. (By Mr. Appell) Mrs. Laufman, do you know a woman named Loreta Piraino? A. Yes, I do.

Q. Who is Loreta Piraino? A. She is a woman who worked at Dee Knitting Mills.

Q. Was she known by any nickname or shortened version of Loreta?

A. Yes, Laura.

Q. I show you General Counsel's Exhibit 31 for identification.

Have you ever seen that before? A. Yes, I have.

Q. Is any of the handwriting on that card yours? A. Yes, it is.

735 Q. Can you tell us what with respect to each line, what is your handwriting? A. Everything on the card is in my writing up to and including the date, except for the signature and that is Loreta's.

Q. Did you see her sign that card? A. Yes, I did.

Q. Did you give her that card? A. Yes, I did.

Q. Was anyone else present? A. Her husband and her daughter, and her younger children.

Q. Where did you give it to her? A. In her home.

Q. Was anyone else present with you? A. With me?

Q. Yes. A. Well, Laura.

Q. From the Union, anyone from the Union? A. No.

Q. Do you remember what time that was, about? A. Yes, it was about 5:30, quarter of 6:00.

Q. Did you speak to her in English or Italian? A. A little bit of each.

736 Q. Do you speak Italian fluently? A. Fluently, no, but I could make myself understood.

Q. Are you of Italian origin? A. Yes, I am.

Q. What did you say to Mrs. Piraino and what did she say to you at the time you gave her the card? A. Well, I explained to her about the benefits of the Union and she said she knows about Unions because the place that she used to work at before, seven or eight months ago or something like that, was a Union place and she had gotten sick and she was a member of the Union and the Union paid for her hospital bill and other things of that nature.

She wanted to know if the Union that I was talking to her about would be the same type of Union.

She worked in an electronics place I understand, of some sort, but she couldn't take it any more. She had gotten sick and she wasn't supposed to

be back to work there.

So I mentioned this to her and her daughter in fact read her the words on the card.

She understands English, she speaks English.

She prefers to speak Italian when she does speak.

She finds she explains herself better.

She understood what she was signing and said if she worked at Dee she
737 needed a Union and she signed the card.

Q. What did you actually say to her when you gave her the card, if you remember? A. I asked her if she knew what she was signing and she said yes.

I asked her if she wanted to sign it and she said yes.

I asked her if she wanted to fill it out and she said it would take her too long, it was around when we – I spoke to her about 5:30, quarter to 6:00.

She had to get dinner ready and she asked me if I would fill it out for her and I said okay, and she signed it.

Q. Did you fill out the part that you did fill out first or did she sign it first? A. No, I filled out the part that I filled out first and then she signed it.

Q. After she signed the card what did she do with it? A. She gave it to me.

* * * * *

739 Q. (By Mr. Appell) Mrs. Laufman, I'm going to show you General Counsel's Exhibit 24 which is in evidence and I'm going to show you General Counsel's Exhibit 25 which is in evidence.

740 Have you ever seen these cards before? A. Yes, I have.

Q. Do you remember if you ever gave those cards to anybody?

A. Yes, I gave them to Donna Baiera.

Q. Do you remember when you gave them to her? A. I gave

them to her in the ladies' room.

Q. Do you remember what date? A. It was during the summer, some time during the summer.

I would say in August.

Q. If you look at the dates on those cards, would that refresh your recollection? A. Yes, I still gave them to her in August.

Q. Do you remember what you said to Miss Baiera when you gave them to her and what she said to you? A. Yes, I do.

I told her that we are trying to organize the shop, that we want a Union, most of the girls want a Union in there.

I asked her if she was interested in joining a Union and she asked me which one.

I looked at her and I said "Well, I don't know if you would know about it," I said, "The International Ladies' Garment Workers Union."

741 She said "Oh, I know them. My father is a member of it."

I asked her which Local and she told me her father is a member of Local 91 or 99.

I asked her if she would be interested in signing and she said yes, and she took both cards.

I asked her if she would talk to Marie Foth about signing and she said yes, she would.

She took the cards.

She didn't sign them right away.

Q. Did there come a time when she returned the cards to you?

A. Yes, she did.

Q. Is there anything on them now that was not on them when she returned them to you? A. Yes, the address.

Q. Which was that? A. The address of Dee Knitting Mills, 165 New Highway, Farmingdale.

She wasn't sure of the address so she filled out her card in front of me, gave me her card and Marie's card.

Donna gave me her card and Marie's card.

Marie had filled her card out in front of Donna and when she gave me both cards I looked at them and I realized that the address wasn't on it.

742 I asked her to please put the address in and she did, and I think I handed her a pen or she used her own pen, I don't know.

Q. Where were you when this took place? A. In my car.

Q. Mrs. Laufman, I show you General Counsel's Exhibit 27 which is in evidence.

Have you ever seen that card before? A. Yes, I have.

Q. Did you ever see anyone give Martha Jean that card? A. Yes, I did, Mary Ruggiero.

Q. Where were you when she gave Martha Jean that card? A. Martha Jean's living room.

Q. Do you remember what date that was? A. Yes, the 18th of September, Tuesday night.

Q. At that time when you were in the house of Martha Jean what did you and what did Mary Ruggiero say and what did Martha Jean say?

A. Mary Ruggiero explained the benefits of Union membership.

She told her of the advantages of belonging to the Union as far as fringe benefits, major medical and Blue Cross, Blue Shield, you know.

Most of the benefits.

743 She asked Martha Jean if she would be interested in signing and Martha Jean's husband was present at the time.

She said yes, she would sign.

Mary gave her the card, asked her to read it before she signed it and make sure she understood it.

She read it, she signed it, she gave it back to Mary.

Q. Did Mr. Jean say anything, the husband, if you recall? A. Yes, he said quite a few things.

He was a member of a Union.

I think he works for an electronics plant. He said she would be better off if she joined the Union.

* * * * *

753 MR. APPELL: Your Honor, I would offer a stipulation that the payroll records of Dee Knitting Mills indicate that Laura Piraino last actually worked at Dee Knitting Mills in the payroll week ending September 7th, 1973.

JUDGE WELLES: I take it that doesn't end your contention that she should be counted, you will have something else?

MR. APPELL: That is correct, your Honor.

MR. BOGUT: So stipulated.

MR. APPELL: May we also stipulate, your Honor, that the records, the payroll records, the master sheet, not individual earnings cards or both in fact for Miss Piraino do not reflect why she left work.

There is no record as to why she left, for whatever reason.

MR. BOGUT: We will stipulate that neither the individual card nor the master weekly payroll sheet indicates any reason for her leaving whatsoever.

Q. (By Mr. Appell) Do you recall a conversation that you had with Miss Piraino?

754 MR. BOGUT: Could I have that question read over again?

I'm sorry, I didn't hear it.

(Whereupon, the pending question was read by the Reporter.)

A. Yes, I have had several with her.

Q. Do you recall having one on the last day she worked? A. Yes, she was telling me she wasn't feeling good.

* * * * *

755 Q. (By Mr. Appell) What did Miss Piraino say to you? A. She

complained about pains in her chest and her back, saying she wasn't feeling good and she blamed it on the fans because she was in direct line of the fans at the time, the position that she worked in, and she said she wasn't feeling good and if she didn't come in the following Monday, the next day of work, that it was because she wasn't feeling good.

Q. Did she come in that following week? A. No.

Q. Did you ever see her again? A. Not at work, no.

Q. Did you ever see her again? A. Yes, I did.

756 Q. When did you see her again? A. I went to visit her at her home.

Q. Do you remember what day or approximate date? A. No, I don't remember the exact date.

Q. Was it before her last day of work at Dee or after? A. Before I would say.

Q. Was anyone else with you at that time? A. Yes, Mary Ruggiero was.

Q. What did you say to Laura Piraino and what did she say to you?

A. Well, I asked –

Q. Or what did Mary say if she said anything? A. Well, when I entered the house I think it was her daughter had told me that the mother was sick and I said well, I wouldn't bother her, and she said no, she will be glad to see you.

They asked me to come in and they brought me up into her bedroom and she was in bed, and in fact had been – was being treated for pneumonia.

Q. Who told you that?

MR. BOGUT: Objection.

A. She did.

MR. BOGUT: How does the witness know what she was being treated for?

757 JUDGE WELLES: She says she knows.

MR. APPELL: Your Honor, there was a further answer.

She said she was told that.

JUDGE WELLES: Yes.

Q. (By Mr. Appell) Anything el take place at that time, do you recall? A. No, the woman was sick.

You could see it. She was sick.

She wanted to get up to make me a cup of coffee and what not and I said no, of course not, stay in bed and I'm sorry I bothered her and we left.

* * * * *

763 Q. Do you recall a Union meeting on September 19th which has been testified to? A. Yes.

Q. Were you present at that meeting? A. Yes, I was.

Q. Did you see anything being distributed at that meeting? A. Yes, I did.

Q. What was distributed? A. Green buttons with white lettering that said ILGWU for me, ILGWU, the Union for me.

Q. I show you General Counsel's Exhibit 3. Is that the button? A. That is the button.

Q. On September 20th did you go to work? A. Yes, I did.

764 Q. Do you remember what time you got into the shop? A. Before 8:00.

Q. What did you do when you came into the shop? A. Punched my timecard.

Q. What did you do next? A. I went to – let me think.

I went to my table where I normally worked and I put my purse down.

Then I had gone over to Doris Tramont, I think first and I gave her a button because she wasn't at the meeting the night before.

I went to Cecelia Barbour and gave her a button because she wasn't at the meeting the night before, and I think that is all I can remember.

I think that is the only two.

I don't remember exactly.

Q. Did you see anyone come into the shop after you came in?

A. Yes.

Q. Whom did you see come in? A. Other employees as they were coming in to work.

Q. Did there come a time that morning when you saw any Union officials come in? A. Yes.

Q. Whom did you see come in? A. I saw Ed Banyai, Mary Ruggiero

765 followed by four girls.

Q. Who were those? A. Gloria Maurice, Ethel Fitzpatrick, Freda Tarsky and Betty Benevenuto.

Q. Anyone standing with you when they came in? A. With me?

Q. Or near you? A. Yes.

Q. Who was that? A. Let me think now.

I think Angela Rosa was near me, Paula Peina was near me, Charley Reina was near me.

Q. Did any of those people say anything? A. Yes, Charley turned around and as he saw Ed Banyai and Mary Ruggiero and the committee going through he said, "Boy, Ethel got to be kidding!

"They think they are going to get a Union for four people?"

Q. Did Paula Reina say anything? A. She had – said something to her father about "What makes you think they are Union people?"

And he pointed towards them and Mary Ruggiero was carrying a little briefcase and I – how can I phrase that?

766 He evidently thought she was a lawyer because he said it was the Union man with a lady lawyer.

That is what he called Mary Ruggiero at the time.

Q. Did Paula say anything else? A. Yes, she said she didn't think

a Union would be that bad, that she probably would join.

Q. And did Charley Reina say anything? A. He said "Well, what are you complaining about? You got it good here. You can always go back to Lerner's. Remember how it was when you worked at Lerner's or do you want to go back to work at Lerner's," something like that.

Q. Did you say anything? A. I said a Union wouldn't be that bad in here, and –

Q. Did Charley say anything? A. He said what good is a Union going to do for you?

The bosses' can't afford it or something like that.

Q. Did there come a time when you saw the women on the committee come out? A. Yes.

Q. Did any of them say anything to you? A. Try to think – I don't really think anybody said anything to me except Gloria pointed to the button and I showed her I had my button on.

767 Q. Did anyone say anything to anyone else that you heard? A. No.

Q. Then what happened? A. Freda came out, the four girls from the committee came out and they went in their different directions.

Freda came to our table.

Gloria went to her machine, Betty went to – she was marking sweaters at the time.

She went to that machine, and Ethel went back to her machine or she went in the direction of her machine.

I didn't get to see Ethel get to her station because the door opened and Charley, Vinnie and Bob Lipsenthal came out screaming together "Get out, you are fired, get out, you are fired!"

Bob Lipsenthal and I think it was Charley came over to our table because Freda looked like like she was in a state of suspended animation.

She sat down and didn't move, and I looked at her and said "What

happened?"

She said "I was just fired," and I looked at her and they came over.

"Get out, you are fired, you are a hypocrite, get out."

I turned around and said why?

768 "Everybody with buttons, you are fired, out!"

Q. Who said that? A. I mentioned it to Bob and I said "Are you firing me because of my button?"

And he said "Yes, out. I want you all out of the shop."

Q. Then what happened? A. I started to pick up my things to go but as I said Freda was in a state of shock really and I started to walk alongside of her because Bob was like behind her.

How can I describe it?

Did you ever see two people walking and one is behind the other taking the same steps like they are moving at the same time?

That is the way it appeared to me.

Like he was behind her to make sure she wouldn't stop.

He wanted to make sure she got out of the shop but he didn't physically touch her with his hands, but he was that close if she would have stopped short he would have been in front of her.

Q. Did you hear Lipsenthal or the DeBartolos say anything else to any of the other employees? A. Yes, they yelled at everybody, "Everybody with buttons, you are fired, get out. I don't want you here, the shop is

769 closed.

"I don't want you working here any more, get out."

Q. Did you hear Lipsenthal say anything else to Freda Tarsky?

A. Yes, as he was – I was walking with her and as we got to the area where the time clock is, where we got to the area where the time clock is he said "Get out of my shop before I forget you are a lady and do something drastic."

Q. What did you do then?

Did you leave the shop? A. Yes.

Q. Where did you go when you left the shop? A. Out to the parking lot.

Q. Who else went out to the parking lot? A. There were quite a few of us out there.

Q. Did anyone talk to you while you were out there? A. Yes, we had gotten over together on the grass, over to the right as you come out of the building, over to the right.

There is a grass area.

We were on the grass and Bob Lipsenthal came out.

Q. Did Mr. Lipsenthal say anything else?

Did he say anything at that time, I should say? A. Yes, I think he threatened Mr. Banyai.

770 Q. What did he say? A. "I know people that can take care of you. Get off the grass. Out in the gutter where you belong."

Q. How many employees were present when he said that? A. Well, everyone that was fired that morning.

I would say close to 20 people.

Q. What did you do after that? A. Well, Ed Banyai, after Bob went into the building Ed Banyai turned around and told Mary Ruggiero and myself "Get everybody together and bring them back to the Union office" because he had to go into New York, and Mary Calligaris drove him to the train and I guess he went into New York and that is just what we did.

We drove everybody in several cars and we took them back to the Union office.

* * * * *

774 Q. (By Mr. Appell) Do you remember what the sign said when you first started picketing? A. When we first started picketing the sign said on

strike against Dee Knitting Mills for unfair labor practices, ILGWU, Local 107, AFL-CIO.

Q. Did there come a time when that picket sign changed? A. Yes, it did.

Q. When was that? A. I would say -- I would have to say some time in December.

I couldn't give you an exact date but it would be some time in December, late November, December.

Q. What was the change in the signs at that time? A. The sign read basically the same thing except that it was on strike against Dee Knitting Mills Incorporated, Dippy Knitting Mills, Incorporated, Three D Incorporated
775 for unfair labor practices, ILGWU, Local 107, AFL-CIO.

Q. During the time you picketed did there ever come a time when you saw any of the pickets or Union officials commit any act of violence?

A. No, sir.

Q. Did you ever see them mount on anyone's car? A. No, sir.

Q. Did you ever see them or ever personally take part in any physical blocking of anyone's entry into the driveway or the shop? A. No, sir.

Q. To what degree have you personally been involved in the picketing?

A. Myself?

Q. Yes. A. I have been there every day since September 20th except for random, an hour or two for different things I have had to attend to, up until the time I attended these hearings.

Q. Did you take part in picketing on September 21st, 1973?

A. Yes, I did.

Q. Did you see a car hit anyone?

JUDGE WELLES: Unless she has peculiar special knowledge about the
776 Rosetta Lyons incident I think it would be again very cumulative.

MR. APPELL: All right, may I lead up to what I want to ask her?

JUDGE WELLES: All right.

Q. (By Mr. Appell) Did you see Rosetta Lyons hit by a car?

A. Yes, I did.

Q. Did you see the driver of the car? A. Yes, I did.

Q. Who was it? A. Salvatore DeBartolo.

Q. Had you ever seen him in the shop before? A. Several times.

Q. What did he do in the shop when you saw him? A. He used to come in at least once or twice a week and he used to bring work in and he used to take work out.

Q. What kind of work? A. Work that had to be finished and he used to bring it back finished.

Q. What did he do after he hit Rosetta Lyons with the car?

A. He proceeded to the garage door, parked the car, got out, went into the building.

Q. By the way, did the car slow down at all at any time after it en-

777 tered the driveway? A. No, sir, just stopped, it stopped when he got to the building.

That is the only time he slowed down.

Q. Did you see Salvatore DeBartolo get out of the car? A. Yes, I did.

Q. Did he do anything or say anything at that time? A. No.

Q. Did he make any kind of motion? A. Yes, he looked over his shoulder.

Q. Did he do anything else? A. Yes.

Q. What is that? A. (Indicating). I don't know what it is. That is the way he went.

MR. APPELL: Can the record show the witness is waving her hand to try to explain what Mr. DeBartolo did?

JUDGE WELLES: Yes. I'm not too concerned with the accuracy of

the description.

I don't think it adds much.

Q. (By Mr. Appell) Did anybody come out to the accident after that?

A. Yes.

Q. Who came out? A. The first one out the door was Marvin Sorensen.

778 Q. Any of the bosses come out? A. Yes, Bob came out, Charley came out, Vinnie came out, Sal Tramuta came out, Charley Reina came out and then the other broker came out, Salvatore.

Q. Did Mr. Reina offer to help? A. Yes, he wanted to pick Rosetta up and take her to the hospital in his car.

Q. What happened? A. I told him no because she wasn't moving and I kept calling, you know, "Rosetta, Rosetta, are you awake."

She wasn't answering and he said "Oh, she couldn't get hurt that bad."

Q. Did you hear Charley DeBartolo say anything? A. Yes, he was talking.

Charles DeBartolo was standing next to his brother Salvatore DeBartolo and Bob Lipsenthal was like near them and they said something in Italian and Bob didn't understand.

He said "What did you say?"

And he repeated it in English, something to this effect, I don't know if he didn't know what they were saying or what and he said "What did you say?"

Q. Did you hear Charles say anything to Salvatore in Italian?

A. Yes, "What are you worried about, you are covered by insurance."

779 Q. Did you say anything when you heard that? A. Said that sounds like an animal or something like that, or that is a terrible thing to say, or whatever.

* * * * *

784 16 Court Street,
Brooklyn, New York
Friday, January 25, 1974

* * * * *

786 BARBARA LAUFMAN

having been previously sworn, resumed the stand and testified further as follows:

* * * * *

796 CROSS EXAMINATION

797 Q. (By Mr. Bogut) Mrs. Laufman, I believe yesterday you testified that you were a union organizer for Local 107? A. Yes.

Q. How long have you been such an organizer? A. Two years.

Q. Are you paid for being or acting in that capacity? A. I am.

Q. Are you paid in that capacity even if you are working in some other place? A. I am.

* * * * *

844 ANN MARIE COOPER

was called as a witness and, having been first duly sworn, was examined and testified as follows:

JUDGE WELLES: Give your name and address to the reporter.

THE WITNESS: Ann Marie Cooper, 111-42 118th Street, South Ozone Park.

DIRECT EXAMINATION

Q. (By Mr. Bogut) Mrs. Cooper, were you ever employed by Dee Knitting Mills? A. Yes.

Q. When did you begin that employment? A. Eight years ago.

Q. Were you working for Dee Knitting Mills in Farmingdale from March, 1973 until today? A. Yes.

Q. What are your duties at Dee Knitting Mills? A. I'm a packer.

* * * * *

853 Q. After September the 20th did you ever observe any people on or near the entrance to the parking lot? A. Yes.

Q. What did you observe there? A. There was a car parked with a few of the girls in it with unfair labor, on strike.

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854 CROSS EXAMINATION

* * * * *

857 Q. Mrs. Cooper, I show you General Counsel's Exhibit 32 for identification. Is this your signature toward the bottom of the second page?

A. Yes.

Q. Is this an affidavit that you gave to NRLBH and Elizabeth Johnson (phonetic)? A. Yes.

Q. Did you read it through before you signed it? A. Yes.

Q. Did you swear that it was true and correct to the best of your knowledge and belief? A. Yes.

Q. Did you initial each page? A. Yes.

Q. Did you make some corrections and initial those? A. Yes.

Q. Isn't it a fact that you told Ms. Johnson in this affidavit that there was a meeting at which Vincent and Charles DeBartolo said something?

A. Yes, but I had been mistaken.

Q. And isn't it a fact that you said that Bob Lipsenthal was present but didn't say anything? A. Yes, but that was the same meeting that I had realized that it was Bob who had said something and not Charlie or Vinnie.

858 Q. Isn't it a fact that in this affidavit you stated you recalled everyone being called together again after a first meeting? A. I don't remember.

Q. Isn't it a fact that you said in this affidavit you remember everyone being called together again and being told by Vincent and Charles DeBartolo that there would be picketing the next day but not to worry about it?

A. That was the one that Bob had called us together on.

Q. September 20, 1973, do you remember that date? A. Yes.

Q. You came in at seven o'clock? A. Yes.

Q. Where do you work in the shop? A. I work right next to the office.

Q. What can you see as to the rest of the shop from where you work? A. If I turn around I can see the whole shop but my table – I face out the window.

Q. The people move chairs in the shop where you sit, can you hear that? A. If I'm listening, but I would have to listen real hard because when I work I don't hear anything.

Q. Do you have a machine? A. No, I just concentrate on examining my sweaters.

859 Q. No machine, no noise of any kind in your operation? A. My cleaning gun.

Q. How often do you use that? A. Sometimes a lot, sometimes hardly any.

Q. Do you remember if you used it that morning? A. No, I didn't.

Q. You did not? A. No.

Q. So it would be correct to say there was no noise coming out of your operation that morning, September 20th? A. Not on my table but I have the pressers' table behind me and when they are going it is hard to hear.

Q. How far is your station from the office door? A. Oh, I'd say about 10 to 20 feet.

Q. It is your testimony that on September 20th in the morning you heard nothing going on? A. Nothing.

Q. You didn't see anyone come out of the office? A. Anyone come out? No.

Q. You saw someone go in, didn't you? A. Yes.

Q. Did you know why they were going in? A. No, I didn't.

Q. You didn't see them come out? A. No, I didn't.

860 Q. You didn't hear them when they came out? A. No.

Q. You didn't hear anyone yell to anyone else anything? A. No.

Q. You didn't hear anyone else say anything to anyone? A. No, I didn't.

Q. Did you see the bosses in the shop that morning? A. Later on.

Q. What time was that? A. 8:30, 9 o'clock.

Q. Did they say anything to you at that time? A. No.

Q. Where were you when you saw some people walk into the shop that morning? A. At my table.

Q. Were you facing them when they came in? A. I happened to just turn this way (indicating) and as I did they walked in.

Q. You never saw them come out? A. No.

Q. Did you ever ask anybody why they went in? A. After, when I looked around and seen nobody in the shop I went over to Sal D'Amico and asked where did everybody go.

Q. What did he say? A. He said, "Don't you know?" I told him

861 no, I didn't.

Q. What did he say? A. He said everybody walked out.

Q. Did you hear any kind of commotion at all that morning?

A. No.

Q. Whom did you see go into the office? A. I seen a man with a few of the girls.

Q. Do you recall presently that there were two meetings that the DeBartolos had held in the shop or any of the bosses other than Charlie Reina? I'm talking about the DeBartolos and Mr. Lipsenthal. Do you recall now that there were two meetings? A. No, I only remember Bob – I had said Vinnie and Charlie but Bob didn't say anything, but then I had

realized it was Bob who had told us.

Q. When was that meeting? A. That was sometime in July.

Q. Who spoke at that meeting? A. Bob spoke at that meeting.

Q. What did he say? A. H told – he had said, "I have heard that there is a few of the girls that id to come into the shop because of the union outside."

He told us, "Please do not be afraid, they will not harm us" or – "they will not harm us", that they will escort us in and out of the building if neces-

862 sary.

Q. It is a fact that you didn't tell Mrs. Johnson when you gave your affidavit that Mr. Lipsenthal spoke at that time; isn't that correct?

A. Yes.

Q. Would you say that your memory is better today than it was in November when you gave this statement?

MR. BOGUT: Objection, your Honor.

JUDGE WELLES: Overruled.

A. It is a little because I had been thinking of it.

Q. When did it occur to you that it was really Mr. Lipsenthal who spoke and not the DeBartolo brothers? A. Quite a while ago.

Q. Did you let anyone know that? A. By who do you mean?

Q. Anybody. Did you let anybody know that you realized that you had made a mistake? A. As far as my bosses go, yes.

Q. Whom did you tell? A. I told one – I don't know if I told Vincent or Charlie.

Q. When did you tell him that? A. Oh, maybe a week later.

Q. How did that come about that you told him that? A. I don't really remember how it came about. I mean, I had just – I don't know if

863 the girls and I were talking or what, but then it dawned on me it wasn't the brothers that spoke.

Q. Did the DeBartolos ask you what you had told the board?

A. No, they did not.

Q. How did it come to be that you told them this information then?

A. Well, then I got worried because I had said that they had said.

Q. Did you call Mrs. Johnson to let her know that you had made a mistake? A. No, I didn't.

Q. Had you told either of the DeBartolos what you had originally put down in the statement? A. No, I had just said I had realized I had made a mistake and I had said they had did the talking and not Bob.

Q. What did they say when you told them that? A. Nothing, they just – "don't worry about it".

Q. My question was originally did you ever tell the DeBartolos what you had put down originally in your statement?

MR. BOGUT: Your Honor, objection. She has answered that question.

JUDGE WELLES: No, I don't think so.

864 A. What do you mean by originally?

Q. Well, was it on the paper before you realized maybe there was a mistake or something? Did you ever tell them after you gave this statement just the way it was, what you had put down on the statement that you signed? A. In the whole statement? I only discussed the part where I had said where they had – I had made the mistake. I did not tell them anything I had said.

Q. The first time? A. Right.

Q. You just went in and told them that you had given a statement and now you realized you had made a mistake on that? A. Yes.

Q. Did you ever discuss your testimony today with either of the DeBartolo brothers? A. No, I did not.

Q. Or Mr. Lipsenthal? A. No.

Q. Or how about Mr. Bogut? A. No.

Q. Well, who asked you to come and testify today? A. Mr. Bogut.

Q. The company lawyer? A. Yes.

865 Q. When did he ask you to do that? A. Wednesday.

Q. Had you ever gotten a copy of your statement from Mrs. Johnson?

A. Yes, I did.

Q. Did you give a copy or hand a copy of that to the company?

A. No, I did not.

Q. You never showed it to them? A. No, I did not.

Q. Did you have a daughter that ever worked at Dee Knitting Mills?

A. Yes.

Q. Who is that? A. Elizabeth Ann Cooper.

Q. What hours did she work there? A. 4:30 to 8:30.

Q. What did she do? A. She packed.

Q. What hours did you work? A. 7 to 4:30.

Q. Did you ever work overtime? A. 4:30.

Q. You never worked after 4:30? A. No.

866 Q. You are sure of that? A. Yes.

Q. Did you leave when everyone left at 4:30? A. No, I stayed a few minutes later.

Q. For what purpose? A. Because I was being taken in to the train station later on. I was meeting somebody in Jamaica.

Q. Was this a regular procedure?

MR. BOGUT: Objection, your Honor.

JUDGE WELLES: Overruled.

A. No, it wasn't.

Q. Well, how often did you stay after 4:30? A. Couple of nights a week.

Q. How late did you stay? A. Some nights I stayed 'til 8:30.

MR. BOGUT: Your Honor, was there any point to this?

JUDGE WELLES: This is cross-examination.

MR. APPEL: Credibility, your Honor.

Q. Which nights, how many nights did you stay until 8:30?

A. Five.

Q. Was that every week? A. Yes.

Q. Did your daughter ever work at Dee Knitting Mills, Mrs. Cooper?

A. No.

867 Q. She is on the payroll of the company, isn't that correct?

A. Yes.

Q. So that the company would put Elizabeth Ann Cooper for the hours that you worked overtime? A. Yes.

Q. Then you weren't paid overtime, were you? A. No, I was paid straight time.

Q. I will ask you again, Mrs. Cooper, did you hear anything on September 20? A. No, I did not hear anything on September 20th.

Q. No one asked you to come out, that they were on strike that morning? A. No, they did not.

Q. No worker said, "Come on, let us get out of here"? A. No.

MR. APPEL: I'm going to offer General Counsel's Exhibit 32 into evidence, your Honor.

MR. BOGUT: Your Honor, respondents object on the ground that the witness has testified herself.

JUDGE WELLES: Objection overruled. General Counsel 32 is received in evidence.

(General Counsel's Exhibit 32 for identification received in evidence, of this date)

Q. (By Mr. Appel) You never saw any of the pickets engage in any

868 violence, did you? A. No.

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869 SALVATORE TRAMUTA

was called as a witness and, having been first duly sworn, was examined and testified as follows:

JUDGE WELLES: Give your name and address to the reporter.

THE WITNESS: Salvatore Tramuta, 14 Blue Grass Lane, Comack, New York.

DIRECT EXAMINATION

Q. (By Mr. Bogut) Mr. Tramuta, are you employed by Three D Knitting? A. Yes, I am.

Q. How long have you worked there? A. I would say roughly three years, something like that.

Q. What are your duties at Three D Knitting? A. Well, I'm the foreman in the knitting department.

Q. Do you have the right to hire and fire people in the knitting department? A. Yes, I do.

* * * * *

871 Q. Do you recall the morning of September the 20th, 1973?

A. Yes, I do.

Q. And at about 7:30 or 8 o'clock in the morning where were you?

A. In the office. Well, I would say the outer office, having coffee with Bob Lipsenthal, Charlie and Vinnie.

Q. Charles and Vinnie DeBartolo? A. Vincent DeBartolo, right.

Q. At that particular time, around 7:30 or 8, were you in an office that was separated from the working area of the plant? A. Yes.

Q. Was the door closed? A. Yes.

Q. What happened, if anything, at that time? A. Well, like I say, we were all having coffee and all of a sudden the door opened up and there

we saw – at the time I didn't know Mr. Banyea (phonetic) and his associate, plus four other girls that work in the plant.

They all wore buttons and they came in. Mr. Banyea I think approached the boys and says, "The girls want to join the union", something to that effect and, "I'm here to represent them."

872 Q. Who said that? A. Mr. Banyea.

Q. At the time when they entered did you open the door for Mr. Banyea? A. No, I did not.

Q. Was there a knock at the door? A. To be truthful to you I didn't hear a knock. I didn't hear a knock. Like I say, we were having coffee and –

Q. All right. Did anybody say anything to Mr. Banyea? A. Well, I imagine the way he came in actually stunned them more or less. They told him to get out, he shouldn't have came in the back door, should have came in the front door, something to that effect.

Q. Who was that? A. I believe Bob and Vinnie or Charlie, could have been either one of them.

Q. Did Mr. Banyea say anything else that you recall? A. I don't know if he had a chance to say anything because they told him to get out and they told him four or five times, I think.

Q. Did Mr. Banyea indicate that he represented the workers in the plant? A. Yes, he did.

Q. Do you recall whether or not the four ladies from the plant who

873 were with him said anything? A. To my knowledge, no, I don't think so.

Q. Do you recall who those ladies were? A. You know, like I say, my section is all the way in the back so I know the women by eye more or less. I do know there was one Freda and a little short girl by the name, I actually never talked to the girls so by name I don't know them.

Q. Did there come a time when Mr. Banyea left the office?

A. Yes. Like I say, after about four or five times that they told him to leave, I believe they led him to the front door and he went out the front door, him and his associate.

Q. What happened to the other ladies in the office? A. The other four girls went back into the factory.

Q. Did you go back into the factory? A. No, I did not. I stayed inside the office.

Q. Do you recall whether or not the two DeBartolo brothers and Mr. Lipsenthal left the office? A. I believe they did. They went outside.

Q. Did you follow them out? A. No, I did not.

Q. When you say outside would that be – A. Inside the plant.

Q. Into the working area of the plant? A. Right.

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880 CROSS EXAMINATION

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881 Q. How long have you known Charles and Vincent DeBartolo?

A. Oh, I would say roughly 10, 12 years, something like that.

Q. Did you first know them when you came to work for them or did you know them before? A. I knew them before.

Q. How long did you know them before you came to work for them?

A. Roughly seven, eight years.

Q. How long ago did you come to work for them? A. I would say roughly three to four years, something like that.

882 Q. So you were friends with them for about eight years and then you worked for them for about three or four years; is that right? A. Yes.

* * * * *

885 Q. On the morning of September 20th do you remember when Mr. Banyea and Mrs. Ruggiero came in with the union committee? A. You

said Banyea and who?

Q. Well, another woman came in? A. Yes.

Q. And then four of the workers in the shop, right? A. Yes.

Q. What did Mr. Banyea say at that time? A. Well, like I said before, he more or less said the girls want to join the union and "I'm here to represent them", something to that effect.

Q. Who answered that? A. There you got me. It was like I say, it was – there was a little confusion so it could have been any one of the boys.

Q. Was it all three of them who made some response? A. Well, like I say again, like it is hard to pinpoint who said it. It probably was said, you know.

Q. My question is this, even if you don't remember exactly who spoke do you recall more than one person answering Banyea at the same time?

A. Could have been even two or three answering at the same time.

Q. Would you say they were angry, Lipsenthal and the DeBartolos?

886 A. They weren't happy about it. After all, the way they claimed they came from the back door.

Q. So the response was which door Banyea had come through?

A. I think that is why they were a little angry about it, yes. In other words, they felt at the time from the way the conversation was going during this day that he should have came in the front door.

Q. What did Banyea say when they told him he should have gone in the front door? A. I don't think he had a chance to say anything.

Q. Because then he was immediately told to get out; is that correct?

A. Yes.

Q. He was invited to go through the front door and then talk to the company? A. Well, all I know is he was told to get out the front door.

Q. Was he told then "you can come back in and then we will talk to

you"? A. This I don't know. I didn't hear that.

Q. You didn't hear that, did you? A. No.

Q. Who actually said to Banyea to get out? A. This goes back a

887 few months. Could have been Charlie or Bob, I'm not sure.

Q. Or Vincent? A. Or Vincent.

Q. Or all three? A. It could have been.

Q. Did all three talk at that time after Banyea had said what he wanted? A. Like I say there was confusion so I can't pinpoint anything as that goes. I more or less was trying to quiet them down.

Q. Banyea wasn't yelling, was he? A. No, he wasn't.

Q. Were any of the union committewomen or the other women yelling? A. No, I don't think so.

Q. Did you hear Bob Lipsenthal talk to Freda? A. No.

Q. Did you hear him talk to any of the committe? A. No, I didn't hear anything.

Q. Did Banyea leave the room, the office? A. Did he leave the room?

Q. Yes, did he finally leave the office then? A. Yes, after about four, five times.

Q. He left with the women who came in with him? A. Right.

888 Q. Isn't it a fact that Charles and Vincent DeBartolo said get out? A. It could be, yes.

Q. Isn't it a fact that you so stated in your statement to the National Labor Relations Board? A. Yes, could be, yes. That is why I say one of the three said it.

Q. Isn't it also a fact that in your statement to the NLRB you said, "Bob Lipsenthal said get out like Charlie and Vinnie but I do not recall him saying anything else"? A. It could be, yes.

Q. Well, I show you – A. No, I am saying that somebody did say it.

Q. I am asking you now did you say this in your statement to the board? A. Yes, I did.

Q. You said that Charles and Vincent said get out and then Bob Lipsenthal also get out but you don't recall Bob saying anything else; isn't that correct? Is that correct? A. Yes.

Q. You gave this statement to Mrs. Johnson of the Labor Board on October 30th of 1973; isn't that correct? A. That's right.

889 Q. When the committee came in did you see them wearing any buttons? A. Yes, they were.

Q. How about the women who were still in the shop, do you know whether they were wearing buttons? A. That I couldn't tell you because like I said, I was in the office.

Q. After Banyea and his woman colleague left what did the committeewomen do? A. They went back into the factory.

Q. Did you go into the factory then? A. No, I didn't.

Q. Did you hear anything out in the factory? A. No.

Q. What did you do? A. I stayed inside. I was still trying to have my coffee.

Q. So you heard – A. Which was cold by that time.

Q. So you didn't hear anybody yell, "Get out of the shop" or anything like that? A. Only inside when they told Banyea.

Q. I'm talking about back in the shop. A. No.

Q. Did you hear anybody yelling in the shop? A. No.

890 Q. Did you hear any talking in the shop after the committe went back in? A. No.

Q. What did Bob and Vincent and Charlie do? A. They went back in the factory.

Q. You saw them go into the factory? A. Yes.

Q. Do you know if they stood by the office door or – A. This

I couldn't tell.

Q. Did they close the door behind them? A. I really don't know.

Q. What did you do? A. Because I don't know who left last, Vinnie, Charlie or what.

Q. Where did you go? A. I stayed in the office.

Q. Did you go to a farther part of the office or – A. To be truthful I was just walking back and forth.

Q. Could you see the door from where you were standing? A. The door leading to the factory?

Q. Yes. A. Yes. I believe it was closed.

Q. They closed it behind them? A. Yes.

891 Q. So you heard nothing? A. Right.

* * * * *

894 Q. Did Sal tell you he did it? A. Well yes, he said it. Not actually that he hit her. He says the girl was on the side of the car, this and that. He said, "I don't see how I could have hit her".

Q. What did Sal say? A. Well, more or less that he just was coming in and she more or less threw herself on the side of the car, something to that effect.

Q. Did he tell you his car made contact with her? A. This he didn't say, no.

Q. Without saying whether he said that it was his fault or her fault did he indicate that somehow his car – A. That he was involved?

Q. Yes. A. Yes, of course.

* * * * *

897

16 Court Street
Brooklyn, New York
January 31, 1974

* * * * *

927 SALVATORE DeBARTOLO

called as a witness, having been first duly sworn in by Judge Welles, was examined and testified as follows:

JUDGE WELLES: Give your name and address to the Reporter.

THE WITNESS: Salvatore DeBartolo, 1069 Hart Street, Brooklyn, New York.

DIRECT EXAMINATION

Q. (By Mr. Bogut) Mr. DeBartolo, where do you work? A. I work by D and S Knitwear.

Q. Is D and S Knitting your own company? A. Yes.

Q. Do you work in Farmingdale for Three D Knitting Mills or Dippy? A. No, I don't.

Q. Mr. DeBartolo, did there come a time when you got to Dippy and Dee are located in Farmingdale on September 21, 1973? A. Can you repeat it, please?

Q. On Friday, September 21, 1973 did you go to the place in Farmingdale where Dee and Dippy are?

928 Q. What happened that day, if anything? A. Oh, I had to deliver some goods and I went there.

Q. Go ahead. A. So when I get there I went to New Highway. Then when I get there on Sherwood Avenue I saw some people. Then I started to blow the horn on my car.

Q. Mr. DeBartolo, the people that you saw, what did you see? A. People around.

Q. Were they walking in a line? A. No, they were on the sidewalk and in the street, all groups.

Q. Was that where Dee is located? A. Yes, all around. In the block where is located Dee and Dippy.

Q. Then what happened, if anything? A. So I went there. When

I saw the people I started blowing the horn in my car.

Then I had to deliver my goods by Dippy and I approached the driveway.

Nobody was in the driveway. When I started driving on the driveway, people, everybody, we were close to the driveway, jump on my car.

Q. Before you made that turn into the driveway did you have your turn signal on? A. Of course, I did.

929 MR. APPELL: Objection.

JUDGE WELLES: It is leading.

Q. Then what happened, if anything? A. So like I said I approached the driver, I turned on my signal and I drove in.

So while I was in the driveway I went because I went slow.

The people were – they started screaming and yelling, I don't know what.

Then the most close, they jump up on my car and I tried to stop the car.

I was already in there and I went out to the car, saw a lady fall on the ground.

Q. Mr. DeBartolo, at anytime that day when you were driving into the Dee Knitting Parking lot did you strike anybody with your car? A. No, I didn't.

Q. Was there any damage to your car as a result of anything that might have occurred? A. No.

Q. Mr. DeBartolo, in connection with what happened that afternoon was there ever, to your knowledge, any criminal charge filed against you in Suffolk County. A. Yes.

930 Q. Did there come a time when you appeared in Court with a lawyer?

A. Yes, I appeared in Court.

Q. Can you tell us how that criminal matter has been disposed of?

A. My case is dismissed.

Q. Did your attorney tell you that? A. My attorney said my case is dismissed in six months.

Q. Have you appeared in Court and has that happened? A. Excuse me, I don't understand.

If I ever to appear again?

Q. Let me rephrase the question.

When your lawyer told you that was that before today? A. No, that has told me when I went the last time in Court.

Q. Before today? A. Yes.

MR. BOGUT: No further questions.

CROSS EXAMINATION

Q. (By Mr. Appell) Mr. DeBartolo, you are an officer of Three D Knitting Mills, aren't you? A. Yes.

Q. What is your title? A. Vice President.

Q. Do you own stock in that company? A. No.

931 Q. Are you sure of that? A. I don't own stock in the company.

Q. How often do you go to the Dee Knitting Mills shop and Three D, Dippy, how often do you go there? A. When I have ready goods in my business. It depends on the season.

If I got whenever ready goods I get to deliver the goods because you know, I want to be paid because I got a payroll in my place for people.

Q. You go more than once a week generally? A. Twice, sometimes three, sometimes – depends on what is the business.

Q. How much time do you spend each time when you go?

A. Where?

Q. At the Dee Knitting Mills shop? A. Sometimes 20 minutes.

I don't understand. What you mean how much time I spend, inside the place?

Q. Yes. A. Or – or the traveling?

Q. Inside the place? A. 20 minutes, 10 minutes.

Q. When you came to the shop on September 21, 1973 you were riding in a station wagon; isn't that right? A. Yes.

932 Q. What color is that station wagon? A. Brown.

Q. That is owned by you, that is your car? A. It is owned by the Knitwear.

Q. Do your brothers use that car too? A. No.

Q. Who else is in business with you at Dee and S Knitwear? A. Before I had a partner, my brother-in-law, now I'm alone.

Q. Which brother was that? A. No, brother-in-law.

Q. Who was that? A. Rosario Sansome.

Q. When you came up to the shop on September 21st in your car when did you blow your horn? A. I started when I turn on Sherwood Avenue. I started blowing the horn because I saw people.

Q. Did they get out of the way? A. Well, they were on the sidewalk but I blow for precaution.

Q. You never stopped your car, did you? A. Nobody was in front of me.

MR. APPELL: I move to strike as not responsive.

JUDGE WELLES: You can ask the question again. I won't strike that.

933 Q. You never stopped your car, did you? A. Where, in the street?

Q. At anytime when you came up to the shop in your car until the actual time when you got out of the car, you never stopped your car, did you?

A. I stopped when I was already in.

Q. You stopped once you got into the driveway, that is the first time you stopped it; isn't that right? A. Yes, sir.

Q. How many people did you see when you came into the driveway?

A. I don't know how many people. I don't know.

In the driveway was no people. They were in never the driveway.

Q. Did they come into the driveway? A. No, they come – when I approach, they – when I went in they came on the car, they grab my car.

Q. Was anyone in front of the car? A. No.

Q. Were they all women? A. Yes.

Q. Did any of them say anything to you that you heard? A. I don't know. They yelling, I don't understand.

Q. You don't understand when people talk english to you?

934 A. When people, three, four, start yelling I can't understand what because I was pay attention to the driving.

Q. Did you see a woman fall? A. Excuse me?

Q. Did you see a woman fall? A. Yes, I went out the car, I saw woman fall.

Q. You say you never hit her? A. I heard people, everybody, the people that were around start yelling.

I don't hear just one special person.

Q. I say you didn't hit her with the car? A. No.

Q. How did she fall? A. I don't know. She grab my car.

Q. What did you see? A. Because she fall, I don't know how she fall. How can say?

How she fall? Maybe she grab my car, I don't know how.

Q. Did you feel your car making contact with her of any kind?

A. Listen, I am driving. If a person grab your car or something, you know, and fall what I can see?

Q. You saw later that she was lying there unconscious, didn't you?

935 A. Yes, when I went out to the car I saw.

Q. You didn't see anyone else hit her, did you? A. What do you mean?

Q. You didn't see anyone else hit this woman, did you?

MR. BOGUT: Objection, your Honor.

A. I don't understand the question.

MR. BOGUT: A conclusion. It should be rephrased.

JUDGE WELLES: No, overruled.

A. I don't understand this question.

Q. Did you see anyone else hit this woman? A. Hit this woman?

Q. Yes. A. No.

Q. How many people jumped up on your car? A. I don't know. How can I say how many?

Q. Two? A. No, I think more. I don't know.

Q. Four? A. Jump two sides, I don't know.

Q. Did you go faster or slower when they jumped on your car?

A. Slow.

Q. Was your car window open? A. I don't remember. I can't remember.

Q. What side of the car did the woman fall? A. I think it was

936 on the left side.

Q. Did you see her fall as you were driving? A. I saw when I came out of the car, I saw the lady. The lady was on the floor.

Q. Did you get out to see what was wrong with her? A. I went to see, but many people already were looking.

I went there. I talked – I tried to run inside to call an ambulance or something and the other people saw, you know, and they said to me the ambulance, they call the Police.

Q. You knew these women were on strike, didn't you? A. I didn't, no.

Q. You didn't know there was a strike at the knitting mills? A. Oh, they had a sign with the strike, but I didn't know they were on strike.

Q. You knew they were picketing? A. Because picketing, I seen strike people go on a line. Over here I saw people all group moving, not in

one place like a regular strike I see on the place.

I never been involved in any strike.

Q. You knew what a picket line was, didn't you? A. I didn't see any picket line.

Q. I say you know what a picket line is? A. For what do you mean?

937 Q. Do you know what a picket line is? A. What do you mean what is a picket line?

Q. When people stand outside and carry signs and walk back and forth? A. You mean people to be on strike, you got to be on line?

Q. Have you ever seen this? A. I seen in other places sometimes.

Q. When you came to Dee Knitting Mills? A. I didn't see such a time.

Q. When you came to Dee Knitting Mills you knew that these were workers from the shop that were on strike, didn't you? A. I didn't know they were on strike.

Q. You didn't know that? A. No.

Q. Your brothers never told you there was a strike? A. I never – my brother didn't told me they are strike because when I call in the morning Dom – people went out on business in the place, not on strike.

Q. Did your brothers tell you that there had been some trouble about the workers for this? A. I didn't talk with my brother that morning.

Q. Did they talk to you the day before? A. No.

938 Q. Did they know you were coming that day? A. Excuse me?

Q. Did they know you were coming that day?

Friday? A. They knew because I told Mr. Lipsenthal, used to call in the morning, usually almost every morning for delivery goods since they started the business.

He called me as a regular "When you are going to bring my goods?"

I said, "I'm on the way to you".

Q. So he called you that morning? A. He called me like every morning.

Q. Did he tell you there was some trouble at the shop? A. He told me watch these people on the side, people walk out from the shop, watch for the people.

Q. Did he say what they were doing? A. No, said they walk out. I said what happened?

I said I can come in your place?

He said "You can come in my place".

Q. Did he tell you what happened? A. Why he got to tell me what happened?

Q. I'm asking you? A. On the telephone I can talk an hour. I got to work my place. I got to work in my place. I work.

Q. Did Mr. Lipsenthal tell you why the people were outside the shop?

939 A. He told me they are outside, watch for the people.

Q. Did he also tell you why? A. I ask if I can go in the place, he told me "You can come in my place".

Q. Did Mr. Lipsenthal also tell you why these people were outside the shop? A. No.

Q. Did you ask him? A. No, I am not interested.

Q. How fast were you going when you got to the driveway, how many miles? A. How many miles? One, what can I say?

You can make yourself when you drive in a driveway, how you can go with a car.

Q. When you came out from the shop after you went in, did your brothers come out with you? A. No. I didn't stay in the shop because the Police come and I had to give all my information to the Police because that is why I lost –

Q. Charlie and Vinnie did not come outside with you after you went into the shop?

MR. BOGUT: Objection, your Honor, this is going beyond direct.

940 JUDGE WELLES: Overruled.

A. What do you mean they come out in the shop?

When I come back home?

Q. No, you came into the driveway and you went into the shop, right?

A. Yes.

Q. Then you came outside again, right? A. What do you mean outside?

With the car?

Q. You came out, outside, walking out.

You came out of the shop? A. When I got there I didn't go before inside the shop because I went first where was the lady.

Q. First to where? A. Where was the lying lady was on the floor. I went to see what has happened before I went in the shop.

Q. Before you went into the shop? A. Yes.

Q. Whom did you talk to when you did that? A. What do you mean?

Q. Did you talk to anyone? A. I didn't talk to anybody.

Q. Then what did you do? A. I asked people, I saw people,

941 people because heard the car coming from the shop and I don't remember who said call the Police, call the ambulance when I saw the lady.

Q. What did you do then? A. What do you mean?

Q. After you looked at the woman on the floor what did you do next?

A. I wait to come the ambulance. I wait like everybody wait.

Q. You never went into the shop? A. Then I went into the shop because it boxes to deliver, I had to bring inside my goods and everything.

Q. Who was inside the shop when you went inside? A. People

working.

Q. Whom did you talk to? A. I didn't talk, I talk with everybody. What do you mean for talking because sometimes I say hello, hello people if I know, but mostly I deliver the goods, I bring inside.

I give the receipt.

Q. Whom did you give the goods to? A. Was to the people, the workers there. I don't know what is the name of the boys that was there.

Q. Did you see Vinnie? A. I saw after, after.

Q. Did you see Charlie? A. Yes.

942 Q. Did you see Bob? A. Yes.

Q. Did they come outside then with you? A. No, they didn't come with me.

Q. After you delivered the goods what did you do? A. I wait, finish the Police because I gave him my papers to the Police and to wait the Police finish, fill out and the papers I give back my papers.

Q. You waited outside or inside? A. I wait outside and inside. I had nothing to do.

Q. When you went outside who waited with you?

Did anyone stand with you and talk with you? A. Once I wait I don't know who was.

I can't remember what has happened all the single minutes in the day.

Q. Did Charlie stand outside with you? A. Nobody stand there with me.

Q. Vinnie didn't stand with you? A. No. They were outside, they were outside for their business, not for my business.

Q. Did you tell them there was a problem that had just happened with the car, with a woman?

Did you tell them what happened? A. They saw it because they

943 were coming out, everybody start over here talking, people, women.

I can't remember all the face because when I do something I don't mark it in the minute all my life. Don't mark everything happen to me every minute.

I can't remember after six, eight months all the minutes of the day.

* * * * *

Q. Were your brothers outside of this shop when you had this incident with the women in the driveway? A. No.

944 Q. When you say that they saw it, where did they see it from?

A. Because once happens something people start to come out from the shop. Even my brother were in the shop, I don't know. I don't know if they come in because they knew something happened on the sidewalk.

I don't even know they come because they had to come out.

Q. When they came out did they talk to you? A. I was too busy for – I talk after, after the Police.

I give the paper to the Police and then I talk to my brother.

Q. How long did it take for the Police to come? A. I don't know, five or ten minutes. I don't know how long.

Q. What did you do in the meantime? A. What I did? I started take off my box from the station wagon and what I do, I did.

First I went to see, I can do nothing on the lady because many people were on top of her because everybody try to help her.

So I – how can you do? What can do in five or ten minutes.

Q. What did you do besides the boxes? What else did you do?

945 Did you talk to anyone? A. No, I didn't talk to anybody.

Q. Charles never asked you what happened? A. Charlie don't ask me anything because Charlie – when I was there I was such confusion of business I didn't have time to talk with anybody.

Q. And Vincent never asked you what happened? A. No.

Q. Did you ever tell him what happened? A. I told after.

Q. When? A. When I had time to meet him and talk to him.

Q. The same day? A. Yes.

Q. What time? A. I don't know when.

Q. Before you left the shop or later? A. Before I left the shop. When happened the accident.

Went outside while I talked to the Police, they came I told you.

Q. You told the Police what happened before you told your brothers? A. Yes. I give all the information they asked me. I give it to the Police.

Q. In your case in Court, the Judge said he would dismiss your charge
946 if you stayed out of trouble until June; isn't that right? A. That is what I understand because my lawyer give him such a – no, I'm not a lawyer, I can't understand.

What I can understand my case is dismissed if I have out of trouble.

He told me such a – I don't, I don't know. I mean, I told him, I don't understand what he means in this thing.

Q. You have to go back to Court in June, don't you? A. No.

Q. You don't have to go back to Court? A. No.

Q. Does your lawyer have to go back to Court? A. No.

Q. How long have you been an officer of Three D? A. Officer for Three D?

Since they start.

Q. How long ago was that? A. I don't know. Three years, almost three years.

Q. So you have been an officer the whole time that the company has been in existence; is that right? A. Yes.

Q. Was there any damage done to your car? A. I told you before, I don't have any damage on my car.

* * * * *

947 ROBERT LIPSENTHAL

called as a witness, having been first duly sworn in by Judge Welles, was examined and testified as follows:

JUDGE WELLES: Give your name and address to the Reporter.

THE WITNESS: Robert Lipsenthal, 1650 New Highway in Farmingdale.

DIRECT EXAMINATION

* * * * *

952 Q. Did you tell the people in the shop that if a union came in there would laid off or fired? A. No.

Q. Did you tell them at that particular time and place that Dee Knitting Mills would close up? A. No.

Q. If the union came in?

Did you say that Dee would lay off employees and that there would be no Christmas party and the loss of other benefits if the union was organized in the shop? A. No.

Q. Did you at that time or at anytime threaten to assault or physically harm in anyway any agents from any union? A. No.

953 Q. Did you at that time or any other time tell any of the employees not to accept union literature? A. No, I did not.

Q. At that meeting that you just testified to did Charles or Vincent DeBartolo speak to the people? A. Not to my knowledge.

Q. Were they there during the entire period of time that this meeting went on? A. Yes, sir.

Q. Did you at anytime during the summer or early fall of 1973 speak to Dee employees privately with respect to union organization or benefits?

A. No, sir.

Q. Did you at anytime during the summer and early fall of 1973 privately speak with a Donna Biari or a girl whose last name was Foth about union organizations or anything at all? A. No, sir.

Q. Were you at your place of business on the morning of September 20, 1973?

A. Yes.

Q. Do you recall where you were at about 7:30 or 8:00 A.M. that morning?

A. Yes, I do.

954 Q. Where was that? A. We were in the clerical office.

Q. When you say we, who was there besides yourself? A. Myself, Charles and Vincent DeBartolo and Salvatore Tramuta.

Q. Now, that morning in the clerical office between 7:30 and 8:00 o'clock, did anything unusual occur? A. Yes, it certainly did.

Q. Can you tell us what happened, if anything? A. Yes, while we were having coffee and going over the routine of business, and all of a sudden the door from the factory burst open.

It just burst open and in came a gentleman, a lady that was with him.

Now, I know their both names of course after and four women from the shop.

Q. Mr. Lipsenthal, prior to seeing the man and the woman on that morning, had you ever seen them before? A. No, sir.

Q. Have you learned since who those people were? A. Yes, I do.

Q. Who were they? A. The gentleman was Mr. Banyai and the woman was Mary Ruggiero, if I am pronouncing her name correctly.

Q. In addition to those two people were there four women from Dee Knitting? A. Yes.

955 Q. After the came into the clerical office was anything said? A. Yes, there was.

Mr. Banyai, as I know now, came in with the women and Mary Ruggiero and said something to the effect that "We have a majority and we want to unionize the shop" or something like that to that effect.

Q. Was any reply made to that statement? A. Yes, it was.

Q. What did you hear? A. Well, Vincent or Charlie and myself asked them to please leave, he is trespassing on our property and Vincent said

to him if you wanted to come in to talk, why don't you come through the front door and asked to talk to me about this instead of coming through the back and breaking in our office.

Q. Did Mr. Banyai at that time, did you hear him say anything with respect to discussing an employment contract or bargaining? A. No, sir.

Q. Did there come a time when Mr. Banyai left the office? A. Yes.

Q. When he left the office how did he leave? A. Through the front door.

956 Q. Did anyone accompany him or was he alone? A. No, Mary Ruggiero accompanied him, after asking him to leave about ten times.

He refused and then finally he left with Mary Ruggiero.

Q. During the time that Mr. Banyai and Mary Ruggiero the four women from the shop and yourself and the DeBartolos brothers were in that clerical office, did you hear anyone say to anyone that they were fired? A. No, sir.

Q. Did you hear anyone say to anybody else "Everybody with union buttons get out"? A. No.

Q. During that time did Vincent or Charles DeBartolo say any words to that effect? A. No.

Q. Now, did there come a time when the four girls who were in the clerical office – did they leave the office? A. Yes.

Q. How did they leave? A. Through the factory door into the factory.

Q. Did there come a time when you walked into the shop after this occurrence? A. Yes.

Q. What did you observe, if anything? A. Well, as I opened the door and went through I observed women walking out at that point and I

957 heard some woman say, "Come on, let's get out of here" or something to that effect.

Q. At the time that you walked out and observed this were Vincent and Charles DeBartolo in the shop? A. No, they were still in the office as far as I'm concerned.

I didn't see them.

Q. Did you or either of the DeBartolos say "Anyone with buttons get out, you are fired"? A. No.

Q. Do you remember speaking to anyone that morning as these girls were purportedly leaving the shop? A. Yes, I do.

Q. Who did you speak to? A. Freda Tarsky.

Q. Do you recall what was said between you and Mrs. Tarsky?

A. Yes, I do.

As she was going, she was on her way out near the back of the shop, and I walked over to her and I said, "Freda, I don't understand what is going on here. You speak", or "spoke with a folked tongue". I said, "You were the woman that was opposed to all unions and you said if a union came in here you and a lot of people were going to quite and walk out. What is going

958 on here?"

Q. Did she reply? A. Yes, she did.

Q. What did she say? A. She spit at me and I hope you will excuse the language she said I was shit.

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959 Q. Do you recall either of the DeBartolo brothers saying anything with respect to the employment of the ladies? A. Yes.

Q. What was that? A. Vincent I think it was, I'm not sure, I think it was Vincent or Charles one of them said, "You are not fired, you are welcome to come back to the shop. Nobody fired you", and that is exactly what one of them said.

Q. Did there come a time later that day when the women who walked out of the shop picked up their checks? A. Yes.

960 Q. Were you present when their checks were handed out? A. Yes.

Q. Who else was there? A. Well, we were in the Dee office.

There was Ellen the bookkeeper which is Ellen, Vincent, Charles DeBartolo and myself.

Q. Did the women come into the office for their checks? A. Yes.

Q. Did they come in in a group or singly or how? A. No, they came in two at a time.

Q. Were you there during the entire time these women picked up their checks? A. Yes.

Q. Did you hear either of the DeBartolo brothers say anything to these women when they picked up their checks? A. Yes, I did.

Q. What did you hear? A. As the women came through the door Ellen recognized who they were and picked their checks up and gave them to Vincent DeBartolo.

At that point Vincent handed it to each woman and told them as he handed each check to each woman, said, "You are not fired, nobody fired you, you are welcome to come back to work anytime you want. The door is open."

961 Q. Did they say to each women that they gave a check to that day? A. Yes sir, every women.

Q. Did any of the ladies who picked up their checks say anything to yourself or to Vincent or Charles DeBartolo? A. Well, when Vincent or Charlie, when Vincent told them that they said, they commented about -- but Freda Tarsky when she picked up her check and Vincent told her that she said, "Now, I guess you hate me".

Q. Was there any reply to that? A. Oh yes, Vincent or Charlie or both said we don't hate you.

All we want you to do is come back to work.

* * * * *

962 Q. Did there ever come a time when you saw Mr. Banyai again after the 20th of – A. Yes.

Q. When was that? A. At the office, his office.

Q. Do you know what day that was? A. That must have been the day – well, Friday, must have been on a Monday or that – must have been on a Monday because –

Q. Could it have been Friday the 21st of September, in the morning? A. Yes, yes, I think it was. It was the day after.

Q. How did it come about that you were in Mr. Banyai's office in the morning? A. Well, as I said before Vincent and Charles do not speak English well at all or understand too well and I was asked to go along with them as an interpreter or whatever you may have.

Q. When you got to Banyai's office was there anybody else present
963 besides yourself and the two DeBartolo brothers? A. Yes, there was Mr. Banyai, Mary Ruggiero and four women from the shop and oh, Ellen the bookkeeper was there.

Q. Were you there during this entire meeting? A. Yes, sir.

Q. What did you hear, if anything, when you arrived there?

A. Well, we came in. After Mr. Banyai, of course, said I had a phone call, I made a call, I asked him if I may use the phone and he said yes.

We went into the room and he was – first thing he said was Dee Knitting Mills has an unfair labor practice against them.

Now, immediately Charles and Vinnie and myself didn't understand what unfair labor practice meant.

They asked him what he meant and he said the firing of the women.

Right away Vincent and Charlie broke in – I shouldn't say broke in, stopped him and said "We didn't fire anybody. There was nobody that was fired. We have no unfair labor practice."

Mr. Banyai said "You did" and Vincent and Charlies said, "You didn't", etc. and so forth.

Furthermore, Vincent or Charles, I don't remember which one, but one

of them said, "Look, we are a new company out here. We, meaning Dee I'm
964 sure he meant, "Are not making money we are losing money. If you don't believe us you can send down an accountant to look at our books", meaning Dee's books, "With another accountant and you can see that we are losing money".

At that point Mr. Banyai said, "That is not my concern, and Vincent – I said, "I'm sorry", I said at this time, I said, "Mr. Banyai what if Dee Knitting Mills cannot afford a union at this point?"

I would like to go back a minute, I don't know if I said that – Vincent said that "All we want to do is get – have a chance to get on our feet."

I remember that.

Then I said, "Mr. Banyai, what if Dee Knitting Mills at this time cannot afford the union?"

Well, Mr. Banyai said to me, answering me as a reply, said, "It is not my concern. Then you will have to go out of business or put a lock on your door".

Then I said to him, "What is the sense of that? The women will be out of work, the mill will be closed. Who is going to benefit by this?"

And mainly Mr. Banyai was adamant about signing the unfair labor practice. That was the big thing at that point. I remember him – Vincent saying to him or Charles, again I don't know, "What if this unfair" – may I continue?

965 JUDGE WELLES: Go ahead.

A. (Continuing) What is – Vincent or Charlie, I don't remember which one said "What if this unfair labor practice was settled today, what will happen Monday? Will the girls come back to work?"

And Mr. Banyai replied, absolutely not. They will not come back to work until a contract is signed.

Not even negotiated but signed. "Then they will come back to work".

So one of them said, "How long will this be?"

Mr. Banyai said, "Possibly a day, two days, a week, a month, six months or a year and you are responsible for the back pay."

Now, of course, Vincent and Charles were very upset about this and again they said, "Well, we didn't fire anybody" and they kept insisting on it and then Mr. Banyai said, "Well, it looks like we can't discuss anything until this unfair labor practice is settled", and that seemed to be the end.

Q. Did Mr. Banyai at that meeting mention anything about negotiating or signing a contract with the union or recognizing them as bargaining agent for the employees? A. No, sir.

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967 CROSS EXAMINATION

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981 Q. Did Mr. Banyai say anything in that meeting on September 21st about wanting the Dee Knitting Mills bosses to sign an unfair labor practice statement and then he would discuss a contract? A. Yes, but Vincent and Charlie said "We didn't fire any girls so what is the unfair labor for?"

They repeatedly said that.

He didn't say he would even sign, yes, that is correct.

Q. So that Mr. Banyai did say that the unfair labor practices had to be settled before they would talk about a contract? A. That is correct.

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United States Court of Appeals

FOR THE SECOND CIRCUIT

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

v.

No. 75-4016

DEE KNITTING MILLS, INC.; DIPPY KNITS, INC.; and THREE D KNITTING MILLS, INC.,
Respondents.

CERTIFICATE OF SERVICE

I hereby certify that I have served by hand (by mail) ~~two~~ Three copies of the APPENDIX in the above-entitled case, on the following counsel of record, this 15 day of April 1975

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